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

MAILED

FEB 25 2009

OFFICE OF PETITIONS

In re Application of	:
Hugo Xavier Gonzalez et al.	:
Application No. 10/745,401	: DECISION ON PETITION
Filed: December 22, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. **SPIRTN.047A**	:

This is a decision on the petition under 37 CFR 1.78(a)(6) filed January 27, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional application 60/493,933, set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

This pending nonprovisional application was filed on December 22, 2003, within twelve months of the filing date of prior-filed provisional application, 60/493,993 which was filed August 8, 2003 and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement

added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(6) can be granted, a renewed petition and either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and in compliance with 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Supervisor
Office of Petitions

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IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:
Hugo Xavier Gonzalez et al.	:
Application No. 10/745,401	: DECISION ON PETITION
Filed: December 22, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. **SPIRTN.047A**	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed March 3, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional application 60/493,933, set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition filed January 27, 2009 was dismissed February 25, 2009 because the amendment filed with the petition improperly incorporated by reference the prior filed application. Comes now petitioner with the instant renewed petition.

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

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

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

This pending nonprovisional application was filed on December 22, 2003, within twelve months of the filing date of prior-filed provisional application, 60/493,993 which was filed August 8, 2003 and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

The fee for an unintentionally delayed claim of priority in the amount of $1,410.00 was paid with the petition filed January 27, 2009 and there is no need for any additional fees.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3738 for appropriate action on the amendment submitted March 3, 2009, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed Provisional Application.

Anthony Knight
Supervisor
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
10/745,401	12/22/2003	3738	768	SPIRTN.047A	22	3

CONFIRMATION NO. 7739

CORRECTED FILING RECEIPT

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000035072424

Date Mailed: 03/19/2009

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

Applicant(s)

Hugo Xavier Gonzalez, Woodinville, WA;
Steven C. Springmeyer, Bellevue, WA;
William A. Sirokman, Kirkland, WA;

Power of Attorney: The patent practitioners associated with Customer Number 20995

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/493,933 08/08/2003

Foreign Applications

If Required, Foreign Filing License Granted: 04/03/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/745,401**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

BRONCHOSCOPIC REPAIR OF AIR LEAKS IN A LUNG

Preliminary Class

623

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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Masco Corporation
21001 Van Born Road
Taylor, MI 48180

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OFFICE OF PETITIONS

In re Application of Talbot et al. :
Application No. 10/745,408 :
Filing Date: December 22, 2003 :
Attorney Docket No. 147-3070-U :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed June 15, 2007, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

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

The Office mailed a Notice of Non-Compliant Amendment on November 3, 2006. The Notice set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later).

The Office did not receive a reply to the Notice. An extension of time was not obtained.

A Notice of Abandonment was mailed June 6, 2007.

Petitioner contends the Notice of Non-Compliant Amendment was never received. Therefore, the petition will be treated initially as a petition under 37 CFR 1.181.

The petition, and a review of the file, indicate the November 3, 2006 Notice did not include petitioner's address. Therefore, the petition has demonstrated non-receipt of the Notice.

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

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot.

Technology Center Art Unit 1724 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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INTELLECTUAL PROPERTY / TECHNOLOGY LAW
PO BOX 14329
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/21/2010

Applicant	: Kenji Nagai	: DECISION ON REQUEST FOR
Patent Number	: 7573231	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/745,415	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1630** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ALEXANDRIA, VA 22313-1450
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Paper No. None

John G. Posa
Gifford, Krass, Groh, Sprinkle, Anderson, and Citkowski, PC
280 N. Old Woodward Ave., Suite 400
Birmingham, MI 48009

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APR 01 2004
OFFICE OF PETITIONS

In re Application of Thomas Herrmann Application No. 10/745,434 Date Deposited: December 24, 2003 Attorney Docket No. BCR-10202/29 Title: Spray Bottle with Accessory Holder	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 February 4, 2004, requesting that application number 10/745,434 be accorded a filing date of December 22, 2003.

The application was deposited on December 24, 2003.

Petitioner has alleged that the application was deposited on December 22, 2003, and the incorrect date was written on the Express Mail label. With his petition, Petitioner has included a copy of a letter written on a routing slip, and copies of the USPS "Pickup Service Statement" and the Express Mail Number EV340745460US[1].

The Pickup Service Statement has a section which is labeled "Affix Stamps or Meter Strip Here (if applicable)". In that section appears the text EV340745460US, and the Statement contains the date "12/22/03."

1 It is noted that this same Express Mail number appears on the Patent Application Transmittal Letter which was included on filing.

However, as set forth above, the Express Mail label itself bears the date "12/24/03."

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) shows that the package was accepted on December 24, 2003. A copy of the later search result is enclosed.

Petitioner has also included a note printed on a "routing slip," from one Charles Thomas Jr., A/Manager Customer Services. While the petition sets forth that Mr. Thomas is "of the Ann Arbor, Michigan Post Office[2]," his note does not. Unfortunately, the note itself is silent as to where Mr. Thomas works, and hence, it is not clear from the face of the note itself that he is an official at the Ann Arbor, Michigan Post Office. Secondly, although the note is dated January 20, 2004, it is not signed. For these reasons, the note cannot constitute persuasive evidence.

Accordingly, the petition is **DISMISSED.**

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

Extensions of time under 37 CFR 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)". This is not a final agency action within the meaning of 5 U.S.C 704.

The reply should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. The Petitioner may wish to consider telephoning the undersigned at the number provided below to confirm that the documents were delivered to the undersigned. Please note that the delivery process within the PTO can take as much as three weeks.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to

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2 Petition, page 1.

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

4 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

the undersigned at (703) 305-0011.

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

Encl.

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COMMISSIONER FOR PATENTS
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WWW.USPTO.GOV

Paper No. None

John G. Posa
Gifford, Krass, Groh, Sprinkle, Anderson, and Citkowski, PC
280 N. Old Woodward Ave., Suite 400
Birmingham, MI 48009

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MAY 0 6 2004
OFFICE OF PETITIONS

In re Application of	:	
Thomas Herrmann	:	
Application No. 10/745,434	:	
Date Deposited: December 22, 2003	:	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.10(D)
Attorney Docket No. BCR-10202/29	:	
Title: Spray Bottle with Accessory Holder	:	

This is a decision on the renewed petition under 37 C.F.R. §1.10(d), filed April 22, 2004, requesting that application number 10/745,434 be accorded a filing date of December 22, 2003.

Petitioner has alleged that the application was deposited on December 22, 2003, and the incorrect date was written on the Express Mail label. With his petition, Petitioner has included a copy of a letter written on a routing slip, and copies of the USPS "Pickup Service Statement" and the Express Mail Number EV340745460US[1].

The original petition was submitted on February 4, 2004, and was dismissed via the mailing of a decision on Aril 1, 2004, for failure to submit persuasive evidence. The previous decision set forth:

1 It is noted that this same Express Mail number appears on the Patent Application Transmittal Letter which was included on filing.

Petitioner has also included a note printed on a "routing slip," from one Charles Thomas Jr., A/Manager Customer Services. While the petition sets forth that Mr. Thomas is "of the Ann Arbor, Michigan Post Office[2]," his note does not. Unfortunately, the note itself is silent as to where Mr. Thomas works, and hence, it is not clear from the face of the note itself that he is an official at the Ann Arbor, Michigan Post Office. Secondly, although the note is dated January 20, 2004, it is not signed. For these reasons, the note cannot constitute persuasive evidence.

With the renewed petition, Petitioner has corrected these two deficiencies, in that Mr. Thomas has both singed this letter and indicated his position within the USPS.

Petitioner has also made reference to a petition filed in another application. It is noted that this petition which is not associated with the instant application is not relevant to the matter at hand.

Since Petitioner has corrected the previously mentioned deficiencies, the renewed 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 22, 2003**, as well as the **mailing of a corrected filing receipt**.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.

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

2 The original petition, page 1.

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JUN 26 2009

OFFICE OF PETITIONS

INCUBE, INC.,
C/O LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

In re Application of	:	
Mir A. IMRAN	:	
Application No. 10/745,439	:	DECISION ON PETITION
Filed: December 22, 2003	:	TO WITHDRAW
Attorney Docket No. INCBNE00300	:	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, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Johney U. Han on.behalf of the attorneys of record associated with Customer No. 40518.

The attorneys of record associated with Customer No. 40518 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.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MIR A. IMRAN
1390 WILLOW ROAD,
MENLO PARK, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/745,439	12/22/2003	Mir A. Imran	INCBNE00300

CONFIRMATION NO. 2038

POWER OF ATTORNEY NOTICE

84179
InCube, Inc., c/o Levine Bagade Han LLP
2400 Geng Road
Suite 120
Palo Alto, CA 94303

OC000000036661859

Date Mailed: 06/26/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/08/2009.

- 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.

/dcgoodwyn/

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

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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
10/745,440	12/23/2003	1761	860	#831-US	10	25	2

CONFIRMATION NO. 2034

CORRECTED FILING RECEIPT

OC000000012523981

Albert Wai-Kit Chan
World Plaza, Suite 604
141-07 20th Avenue
Whitestone, NY 11357

Date Mailed: 05/04/2004

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

Applicant(s)

Andrew Yuen Chin Chen, Tai Po, HONG KONG;
Sum Fat Poon, Tai Po, HONG KONG;

Assignment For Published Patent Application

Electrical and Electronics Ltd.;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/07/2004

Projected Publication Date: 06/23/2005

Non-Publication Request: No

Early Publication Request: No

Title

Cabinet design of filter holder for pressurized coffee machines

Preliminary Class
099

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

GRANTED

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

Tadashi Horie
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago IL 60610

In re Application of Asano et al. Application No. 10/745,443 Filed: December 23, 2003 Attorney Docket No. 11333/32 Title: Devices, Methods, and Systems for Measuring Analytes Extracted Through Skin	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed August 11, 2004 under 37 CFR. §1.47(a).

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

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

The above-identified application was filed on December 23, 2003, without an executed oath or declaration. Accordingly, on April 7, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of June 7, 2004.

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 two (2) month extension of time was also submitted.

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

acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (1) and (2).

As to item (1), rule 47 applicant has failed to show that inventor Mizuno was ever presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. See MPEP 409.03(d). Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP § 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate.

As to item (2), although rule 47 applicant has provided the last known address of inventor Mizuno, the last known address in the petition does not correspond with the address provided on the declaration. Each applicant's mailing or post office address is required to be supplied on the oath or declaration, if not stated in an application data sheet. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. See MPEP 605.03. Petitioner should refer to 37 CFR 1.67 (2) and (3).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

Tadashi Horie
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago IL 60610

In re Application of Kaoru Asano, Takeshi Mizuno, Yasunori Maekawa and Kenichi Sawa Application No.10/745,443 Filed: December 23, 2003 Attorney Docket No. 11333/32 Title: Devices, Methods, and Systems for Measuring Analytes Extracted Through Skin	DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the renewed petition under 37 CFR 1.47(a) filed May 19, 2006.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor Mizuno 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.

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

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

Takeshi Mizuno
25-1 Migimomi
Tsuchlura-City
Ibaragi 300-0837
Japan

In re Application of
Kaoru Asano, Takeshi Mizuno, Yasunori Maekawa and Kenichi Sawa
Application No.10/745,443
Filed: December 23, 2003
Attorney Docket No. 11333/32
Title: Devices, Methods, and Systems for Measuring Analytes Extracted Through Skin

: LETTER

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OFFICE OF PETITIONS

Dear Mr.Mizuno :

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

Tadashi Horie
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago IL 60610

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MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
SUITE 3300
MILWAUKEE WI 53202

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OFFICE OF PETITIONS

In re Application of	:	
Charles Stark Applegate et al	:	
Application No. 10/745,446	:	DECISION GRANTING PETITION
Filed: December 23, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 031092-9444	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 September 28, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

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

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of :
Leslie Michelassi, Lisa C. Tidwell, Randy Templeton, and Sharat Shankar :
Application No. 10/745,464
Filed: December 23, 2003 :
Attorney Docket No. 1DATA.116A :
Title: SYSTEMS AND METHODS FOR PRIORITIZING RECONCILEMENT INFORMATION SEARCHES :

DECISION ON PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed October 13, 2004[2].

On December 23, 2003, the application was deposited, identifying Leslie Michelassi, Lisa C. Tidwell, Randy Templeton, and Sharat Shankar as joint inventors. On April 8, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration, the surcharge associated with the late submission of a declaration, the basic filing fee, and additional claim fees were required. This Notice set a two-month period for reply.

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1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 The petition contains a certificate of mailing dated October 8, 2003.

With the instant petition, Petitioner has submitted a declaration which has been executed by each of the joint inventors save Mr. Shankar, the petition fee, the surcharge associated with the late submission of the declaration, the basic filing fee, the additional claim fees, and a statement of facts. Petitioner has further included a four-month extension of time to make timely this response.

Petitioner has met requirements (1) – (5) above.

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

After this decision is mailed, the application will be forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (571) 272-3225. Questions pertaining to this application should be directed towards the Office of Patent Publication at (703) 305-8497.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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IBM CORPORATION
LOTUS SOFTWARE
ONE ROGERS STREET
CAMBRIDGE, MA 02142

Mail Date: 04/20/2010

Applicant	: Daniel M. Gruen	: DECISION ON REQUEST FOR
Patent Number	: 7631276	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/745,481	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1013** 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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ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO TX 75024

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OFFICE OF PETITIONS

In re Application of	:	
Touati, et al.	:	
Application No. 10/745,506	:	DECISION
Filed: 29 December, 2003	:	
Attorney Docket No. P17742US1	:	

This is a decision on the petition, filed on 9 May, 2008, considered as a petition under 37 C.F.R. §1.137(b) to revive the application as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the non-final Office action mailed 31 August, 2007, with reply due absent extension of time on or before 30 November, 2007.

The application went abandoned after midnight 30 November, 2007.

It does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed.

On 9 May, 2008, Petitioner filed the instant petition with fee, a reply in the form of an amendment and made a statement of unintentional delay.

The regulations at 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 Office mailed the Notice of Abandonment on 31 March, 2006.

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 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]

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

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

The instant application is released to Technology Center/AU 2416 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the

[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).

Technology Center/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[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

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FROM DIRECTORS OFFICE

MAR 16 2005

TECHNOLOGY CENTER 3600

Susan P. Petraglia, Esq.
116 Sixth Street, NE, No. 303
Washington, DC 20002

In re Application of
Henry F. Decker
Application No. 10/745,516
Filed: December 29, 2003
For: VEGETATIVE PLANTING MATERIAL AND METHOD FOR PRODUCING IT, USEFUL IN GRASS SOD PRODUCTION

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on November 29, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated _____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response, filed November 18, 2004, with a Certificate of Hand Delivery Receipt dated November 18, 2004 has been found in the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

KJD/jwk: 2/2/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of :
Kazuhisa Mogi :
Application No. 10/745,544 : ON PETITION
Filed: December 29, 2003 :
Attorney Docket No. 118209 :

This is a decision on the petition, filed August 4, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 3747 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
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : August 5, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Kazuhisa Mogi
Application No. :10/745,544
Filed :December 29, 2003

The above-identified application has been assigned Patent No. 6,925,972 and an issue date of August 9, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 9, 2005:

"All reference to Patent No. 6,925,972 to Kazuhisa Mogi of Japan for INTERNAL COMBUSTION ENGINE DRIVEN WITH CHANGE-OVER OF COMPRESSION RATIO, AIR-FUEL RATIO, AND BOOST STATUS appearing in the Official Gazette of August 9, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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KING & SPALDING LLP (SAIC CUSTOMER NUMBER)
ATTN: GEORGE T. MARCOU
1700 PENNSYLVANIA AVE, NW
SUITE 200
WASHINGTON DC 20006

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MAR 27 2008

OFFICE OF PETITIONS

In re Patent No. 7,257,586	DECISION ON APPLICATION FOR
Issued: August 14, 2007	PATENT TERM ADJUSTMENT UNDER
Application No. 10/745,552	37 CFR 1.705(d)
Filed: December 29, 2003	
Atty. Dkt. No.: SAIC0060-CON1	

This is a decision on the "PETITION UNDER 37 C.F.R. §1.702 FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed September 10, 2007. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **DISMISSED AS UNTIMELY**.

The above-identified application matured into U.S. Patent No. 7,257,586 on August 14, 2007. The instant request for reconsideration was timely filed September 10, 2007 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 502 days. Patentees argue that the adjustment was improperly reduced 59 days in connection with applicants' reply filed February 9, 2007 in response to a non-final Office action.

Patentees are advised that any request for reconsideration under 37 CFR 1.705(d) that raises issues that were raised, or could have been raised, in an application for patent term adjustment under 37 CFR 1.705(b) shall be dismissed as untimely as to those issues. As the 59 day reduction contested by patentees could have been raised under 37 CFR 1.705(b), patentees' request for reconsideration of said reduction is dismissed as untimely.

In view thereof, the adjustment of 502 days will not be reconsidered.

Receipt is acknowledged of the required patent term adjustment application fee of $200.00.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date of the instant decision indicated above. Extensions under 37 CFR 1.136 will not be permitted.

The address indicated on the application for patent term adjustment differs from the correspondence address of record. If practitioner desires to receive future correspondence regarding this patent, the appropriate change of correspondence address documentation must be submitted. A courtesy copy of this decision will be mailed to practitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

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

CC: GEORGE T. MARCOU
KILPATRICK STOCKTON LLP
607 14TH STREET, NW, STE. 900
WASHINGTON, DC 20005

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Alexandria, VA 22314

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SEP 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
SAKAKIBARA et al.
Application No. 10/745,571
Filed: December 29, 2003
For: DISK ARRAY SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petitions, filed on March 11, 2005 and August 04, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

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

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submissions of August 4, 2005 and March 11, 2005 meet all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 17, 2006

TO SPE OF : ART UNIT 2115

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/745571 Patent No.: 7,100,059 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: _____

_____

_____

_____

_____

SPE

2115

Art Unit

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

MAIL

FEB 23 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Yasuhiro Sakakibara, et al.
Application No. 10/745,573
Filed: December 29, 2003
For: **DISK ARRAY SYSTEM AND DISK DRIVE UNIT**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed January 28, 2005 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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

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MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Jacobs et al.	:	
Application No. 10/745,586	:	
Filed: December 29, 2003	:	ON PETITION
Attorney Docket Number:	:	
00766.000076.2	:	

This is a decision on the Petition, filed January 11, 2006, requesting the application be accorded a filing date of October 18, 2004, including page 6 of the specification.

The petition is **granted**.

Background

The application was filed on December 29, 2003. In response to the filing, on October 15, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Provisional Application (hereinafter ("Notice"), stating that the application had been accorded a filing date; however pages 167 - 184 of the specification appeared to have been omitted from the application.

The Notice of Omitted Item(s)

As stated in the Notice, and in the MPEP 601.01(d),

> [t]he mailing of a "Notice of Omitted Items" will permit the applicant to either: (A) promptly establish prior receipt in the USPTO of the page(s) at issue (generally by way of a date-stamped itemized postcard receipt (MPEP § 503)); or (B) promptly submit the omitted page(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the page(s) was in fact deposited in the USPTO with the

application papers must, within 2 months from the date of the "Notice of Omitted Item(s)", file a petition under 37 CFR 1.53(e) with the petition fee set forth in 37 CFR 1.17(f), along with evidence of such deposit (37 CFR 1.181(f)). The petition fee will be refunded if it is determined that the page(s) was in fact received by the USPTO with the application papers deposited on filing. An applicant desiring to submit the omitted page(s) in a nonprovisional application and accept the date of such submission as the application filing date must, within 2 months from the date of the "Notice of Omitted Item(s)," file any omitted page(s) with an oath or declaration in compliance with 37 CFR 1.63 and 37 CFR 1.64 referring to such page(s) and a petition under 37 CFR 1.182 with the petition fee set forth in 37 CFR 1.17(f), requesting the later filing date (37 CFR 1.181(f)).

Applicant's Response to the Notice

Applicant filed a Response to Notice of Omitted Items and Preliminary Amendment on December 14, 2004. In the response, Applicant stated that they wish to maintain the December 29, 2003 filing date, and in addition, relying on an incorporation be reference, sought to enter the amendment.

This Office's Response to the Response and Amendment

Upon receipt of the Response and Amendment, this Office, in accordance with item II as set forth in the Notice of Omitted Items, changed the filing date of the application to the date of the submission.

The instant petition

Applicant files the instant petition wherein Applicant requests correction of the filing date to December 29, 2003.

A review of the file reveals that the application as filed on December 29, 2003, was a complete application under 37 CFR 1.53(b) such that the application was correctly accorded the December 29, 2003 filing date.

Applicant is advised that "t]he inclusion of this incorporation by reference statement will permit an applicant to amend

the continuation or divisional application to include subject matter from the prior application(s), without the need for a petition[1] provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. MPEP 201.06(c) (Emphasis supplied).

Applicant may add pages 167 - 184 of the specification by way of amendment and without a petition.

In view of the fact that the petition was not necessitated by an error on the part of this Office, the petition fee, $400.00, will not be refunded.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of December 29, 2003, using the application papers filed on that date.

Applicant is advised to file an amendment prior to the first Office action on the merits.

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

Derek L. Woods
Attorney
Office of Petitions

[1] In this instance, Applicant should not respond to the Notice, but file a preliminary amendment for review by the Examiner, who decides issues of new matter.

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Paper No. None

Simon Kahn
c/o LandonIP, Inc.
Suite 450
1700 Diagonal Road
Alexandria VA 22314-2866

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AUG 31 2006

OFFICE OF PETITIONS

In re Application of :
Serge Steinblatt et al. :
Application No. 10/745,596 : DECISION ON PETITION
Filing Date: December 29, 2003 : UNDER 37 C.F.R. §1.78(a)(3)
Attorney Docket No.: VRY-003 :
Title: APPARATUS AND METHOD FOR :
RECYCLING TONER IN A PRINTED :
IMAGE DISPLAY SYSTEM :

This is a decision on the petition under 37 C.F.R § 1.78(a)(3) filed October 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of nonprovisional application number 09/781,900, filed February 13, 2001, which issued as U.S. Patent number 6,686,941 on February 3, 2004, as set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

In the concurrently filed amendment, Petitioner adds continuity data in order to claim the benefit of nonprovisional application number 09/781,900. The amendment contains text which claims the benefit of provisional patent application 60/439,806, and the portion of the paragraph which refers to this provisional application has not been underlined. As such, Petitioner has mistakenly characterized this portion of the paragraph as a non-amended portion. Petitioner will note however, that although this portion of the paragraph was present on filing, it was deleted by way of an amendment filed on July 20, 2004.

As such, the amendment, as currently presented, cannot be entered. In order to secure the benefit of nonprovisional application number 09/781,900, Petitioner will need to submit an amendment which does not make reference to provisional patent application 60/439,806.

Should Petitioner wish to claim the benefit of provisional patent application 60/439,806, he will need to submit a petition under 37 C.F.R 1.78(a)(6), and will need to explain how the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional, since the reference to this application was intentionally deleted by the amendment of July 20, 2004.

Any reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.78(a)(3)." This is not a final agency action within the meaning of 5 U.S.C 704. The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3]. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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 Senior Attorney Paul Shanoski at (571) 272-3225.

Frances Hicks

Frances Hicks
Petitions Examiner
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, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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MAY 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, NW
Washington DC 20037

In re Application of:
Toshihiro SHIGEMORI
Application No. 10/745,609
Filed: December 29, 2003
For: **RECORDING CLOCK GENERATING APPARATUS FOR A DATA RECORDING SYSTEM**

DECISION ON PETITION

This is a response to the Petition to Withdraw Holding of Abandonment, filed March 10, 2005.

This application became abandoned for failure to timely submit the issue fee due in response to the Notice of Allowance and Issue Fee Due mailed September 16, 2004. A Notice of Abandonment was mailed on February 2, 2005.

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 communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c), section II. 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.

Petitioner asserts that the Notice of Allowance mailed September 16, 2004 was never received. In support thereof, Petitioner attests that the Office communication (Notice of Allowance) was not received at the correspondence address, and that a search of the contents of the file jacket and docket records reveal no evidence of receipt. Copies of the docket records have also been included to corroborate petitioner's claim.

The Notice of Abandonment mailed February 2, 2005 is hereby vacated and the holding of Abandonment withdrawn. Also, the Notice of Allowance and Issue Fee Due mailed September 16, 2004 is hereby vacated.

The petition is **GRANTED**.

Since it has been established that the Notice of Allowance was not received, it is presumed that Applicant also failed to receive the Notice of Allowability. The application will be forwarded to the Technology Center's technical support staff for mailing of a new Notice of Allowance and Issue Fee Due, as well as a copy of the Notice of Allowability. The three (3) month non-extendable time period for paying the issue fee will be set to run from the mailing date of the Notices.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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

Mail Date: 05/18/2010

Applicant	: Sandor L. Barna	: DECISION ON REQUEST FOR
Patent Number	: 7619669	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/745,611	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1358** 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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1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-9889

MAILED

JUL 21 2005

Technology Center 2100

In re Application of: NAKANO
Application No. 10/745,622
Filed: December 29, 2003
For: METHOD FOR MANAGING COMPUTER, APPARATUS FOR MANAGING COMPUTER, AND COMPUTER READABLE MEDIUM STORING PROGRAM FOR MANAGING COMPUTER

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a response to the petition filed June 28, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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.

Note: The change of address filed 4/8/05 is not entered because the attorney (Carl I. Brundidge) is not the attorney of record.

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

AWK

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

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PEARL COHEN ZEDEK LLP
10 ROCKEFELLER PLAZA
SUITE 1001
NEW YORK, NY 10020

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OFFICE OF PETITIONS

In re Application of	:	
Shiri Zilberman et al	:	
Application No. 10/745,623	:	DECISION GRANTING PETITION
Filed: December 29, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P-6059-US	:	

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 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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 concurrently filed Information Disclosure Statement.

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

---

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

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WESTERMAN HATTORI DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW, SUITE 700
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of :
Hiroshi Kobayashi :
Application No. 10/745,625 : ON PETITION
Filed: December 29, 2003 :
Attorney Docket No. 032176

This is a decision on the petition, filed February 4, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3724 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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Technology Center 2100

REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALLS CHURCH VA 22042

In re Application of: Matsuki, et al.
Application No. 10/745,650
Filed: December 29, 2003
For: DISK ARRAY SYSTEM AND FAULT INFORMATION CONTROL METHOD

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

This is a response to the petition filed November 8, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

The petition filed November 8, 2004 fails to adequately meet requirements (b) and (e) of the criteria set forth above. With respect to requirement (b), applicant has failed to make the statement that "Applicant will make an election without traverse as a prerequisite to the grant of special status if the Office determines that all the claims are not obviously directed to a single invention". With respect to requirement (e), applicant must provide a detailed discussion of reference document (US 6,038,681 granted to Saegusa) since applicant has deemed it as one of the most closely related references. Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. The statement that the reference shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

In addition, applicant should consider filing an Information Disclosure Statement (PTO-1449 or PTO-SB08A) to ensure consideration of the references cited in the petition by the assigned examiner.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

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

Brian L. Johnson
Special Program Examiner 1/24/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

MBS

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Technology Center 2100

REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALLS CHURCH, VA 22042

In re Application of: MATSUKI, et al.
Application No. 10/745,650
Filed: December 29, 2003
For: DISK ARRAY SYSTEM AND FAULT INFORMATION CONTROL METHOD

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

This is a response to the Renewed Petition filed February 10, 2005, on the Petition to make Special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, originally filed on November 8, 2004 and dismissed on January 27, 2005.

The Reconsideration of 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.

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

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

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

3/17/05

SDL: 03/15/05

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P.C.
20333 SH 249
SUITE 600
HOUSTON TX 77070

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of
Berwanger et al.
Application No. 10/745,658
Filed: December 29, 2003
Attorney Docket No. 319-0009US

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition filed July 19, 2005, which is being treated as a petition under 37 CFR §1.78 (a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior filed provisional application no. 60/275,146 set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the

prior-filed provisional application as required by 37 CFR 1.78 (a)(5)(ii). Additionally the intermediate application was filed within twelve months of the filing date of the prior-filed provisional application, for which priority is claimed.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the 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) 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 application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Charlema R. Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 2125 for appropriate action on the amendment filed July 19, 2005 including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Any inquiries concerning this decision may be directed to Charlema R. Grant at (571) 272-3215.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petition

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RUTHERFORD & BRUCCULERI PC
20333 SH 249, SUITE 600
HOUSTON, TX 77070

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OFFICE OF PETITIONS

In re Application of	:	
Patrick C. Berwanger et al	:	
Application No. 10/745,658	:	DECISION GRANTING PETITION
Filed: December 29, 2003	:	UNDER 37 CFR 1.181
Attorney Docket No. 319-0009US	:	

This is a decision on the "Petition to Withdraw Holding of Abandonment under 37 CFR 1.181, filed August 26, 2005.

The petition is **granted**.

This application was held abandoned for failure to timely reply to the non-final Office action mailed January 19, 2005, which set a three month shortened statutory period for reply. A reply was due on or before April 19, 2005, or on or before July 19, 2005, with obtention of a three month extension of time.

Petitioner asserts that the holding of abandonment is improper as a timely reply was filed on July 19, 2005, along with a request for a three month extension of time and fee. In support, petitioner has proffered a copy of the previously filed reply, along with a facsimile transmission cover sheet, which itemizes the items being transmitted, and which shows that 20 pages (including the cover page) were transmitted on July 19, 2005 at 9:38:38 PM.

The holding of abandonment in this application is in fact improper since a reply and three month extension of time, filed by facsimile transmission on July 19, 2005, are of record for this file. Accordingly, the holding of abandonment is hereby withdrawn and the application restored to pending status.

No fee is required for consideration of a petition under 37 CFR 1.181 to withdraw the holding of abandonment and no fee has been charged therefor.

Inquiries concerning this decision on petition should be directed to the undersigned at (571) 272-3218. All other inquiries concerning the status or examination of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2125 for appropriate action in the normal course of business on the reply received July 19, 2005.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF THE DIRECTOR
TC 3600

RICHARD C. LITMAN
LITMAN LAW OFFICES, LTD.
P.O. Box 15035
Arlington VA 22215

In re application of	:	**DECISION ON PETITION**
Francis C. Clancey	:	**TO MAKE SPECIAL**
Application No. 10/745,667	:	**(APPLICANT'S AGE)**
Filed: December 29, 2003	:	
For: METHOD OF AWARDING ELECTORAL VOTES		

This is a decision on the petition submitted on ~~November 24,~~ 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. Clancey indicating that he is at least 65 years of age.

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

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

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

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

SNM/pav: 5/22/04

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One StorageTek Drive
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OFFICE OF PETITIONS

In re Application of Thai Nguyen, Charles Milligan and Jacques Debiez Application No. 10/745,744 Filed: December 26, 2003 Attorney Docket No. 2002-145-TOU Title of Invention: METHOD AND APPARATUS FOR CONTROLLING POWER SEQUENCE OF A PLURALITY OF ELECTRICAL/ELECTRONIC DEVICES	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

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

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application. Sufficient evidence has been presented to establish that non-signing inventor 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 per applicant's authorization a petition fee in the amount of $130.00 has been charged to deposit account 19-4545, pursuant to 37 CFR 1.17(h).

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Jacques Debiez
229 Chemin de Tucant
31270 Cugnaux
FRANCE
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OFFICE OF PETITIONS

In re Application of
Thai Nguyen, Charles Milligan and Jacques Debiez
Application No. 10/745,744
Filed: December 26, 2003
Attorney Docket No. 2002-145-TOU
Title of Invention: METHOD AND APPARATUS FOR CONTROLLING POWER SEQUENCE OF A PLURALITY OF ELECTRICAL/ELECTRONIC DEVICES

LETTER

Dear Mr. Debiez:

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

Timothy Schulte
STORAGE TECHNOLOGY CORPORATION
One StorageTek Drive
Louisville CO 80028-4309

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OFFICE OF PETITIONS

In re Application of	:	
Kyung-Hoon Kim	:	
Application No. 10/745,745	:	DECISION ON PETITION
Filed: 23 December, 2003	:	
Atty Docket No. 51876P511	:	

This is a decision on the petition filed on 19 September, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

---

[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)).

The application became abandoned on 3 September, 2005, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 2 June, 2005, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

This application is being referred to Publishing Division for processing into a patent.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SAN RAMON CA 94583-0806

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OFFICE OF PETITIONS

In re Application of	:
Allen W. Burton, Jr., et al	:
Application No. 10/745,746	: DECISION GRANTING PETITION
Filed: December 23, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. T-6177B	:

This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 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 a response; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of June 14, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1764.

Karen Creasy
Petitions Examiner
Office of Petitions

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Paper No.

Pavel Pogodin, Esq.
617 North Delaware Street
San Mateo, CA 94401

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OFFICE OF PETITIONS

In re Application of	:	
Wen et al.	:	DECISION ON PETITION
Application No. 10/745,752	:	
Filed: December 27, 2003	:	
Attorney Docket No. N0125/PP/HH	:	

This is a decision on the "Petition under 37 C.F.R. §1.53(e)(2) and Request for Refund of Petition Fee" filed September 26, 2004, requesting that the above-identified application be accorded a filing date of December 27, 2003.

Application papers in the above-identified application were filed on December 27, 2003. However, on July 28, 2004, the Office mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.

Petitioner responded with the instant petition (and petition fee). Petitioner asserts that the drawings were attached to the application as filed. In support thereof, petitioner submits a copy of their date-stamped postcard receipt. Petitioner also supplies a copy of the drawings.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of the postcard receipt reveals that: 1) it bears an OIPE date-stamp acknowledging receipt on December 27, 2003 of the correspondence assigned application No. 10/745,752, 2) it identifies the items being filed, including "3 sheet(s) Formal Drawings," and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the four sheets of drawings, were filed on December 27, 2003.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded. The Office of Finance will process the refund.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of December 27, 2003, using the application papers received in the Office and presently accorded that date; and the four sheets of drawings re-supplied on petition filed September 26, 2004.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
WEN, Kuei-Ann et al.	:	
Application No. 10/745,752	:	DECISION ON PETITION
Filed: December 27, 2003	:	TO WITHDRAW
Attorney Docket No. **60010-0024**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 22, 2007 and re-submitted February 26, 2007.

The request is **NOT APPROVED**.

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VENABLE LLP**
RAYMOND J. HO
575 7TH STREET NW
WASHINGTON, DC 20004-1601

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OFFICE OF PETITIONS

In re Application of	:	
Kuei-Ann Wen et al.	:	
Application No. 10/745,754	:	DECISION ON PETITION
Filed: December 27, 2003	:	TO WITHDRAW
Attorney Docket No. NO124/PP/HH	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 22, 2007.

The request is **NOT APPROVED**.

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

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

A courtesy copy will be mailed to the applicant.

If the attorneys noted on the request desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

There is no pending office action in this application.

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 Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Kuei-Ann Wen
1001 TaShueh Road
HsinChu, TAIWAN, R.O.C.

cc: Venable, LLP
575 7th Street NW
Washington, DC 20004-1601

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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/745,754
Filing Date	December 27, 2003
First Named Inventor	Kuei-Ann WEN
Art Unit	2616
Examiner Name	FEILD, LYNN DIANA
Attorney Docket Number	NO124/PP/HH

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

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

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 41744

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are:

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[x] The address associated with Customer Number: 44920

OR

[ ] Firm or Individual Name					
Address					
City		State		Zip	
Country					
Telephone				Email	
Signature					
Name	Joseph Bach		Registration No.	37,771	
Date	February 22, 2007		Telephone No.	(650) 625-8100	

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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FEB 2 2 2007

FAX

Date	February 22, 2007
To	Commissioner for Patents
Of	U.S. Patent & Trademark Office
Fax	571-273-8300
From	Joseph Bach, Reg. No. 37,771
Subject	Request for Withdrawal as Attorney or Agent and Change of Correspondence Address

Our Ref	NO124/PP/HH	Appln.	10/745,754
Conf	4031	Inventor	Kuei-Ann WEN
Pages (including cover sheet)	2		

Please call attention to problems with this transmission by return fax or telephone. Thank you.

THE INFORMATION CONTAINED IN THIS COMMUNICATION IS CONFIDENTIAL, MAY BE ATTORNEY-CLIENT PRIVILEGED, AND IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE. UNAUTHORIZED USE, DISCLOSURE OR COPYING IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US.

ATTORNEY/DOCKET NO:

DECLARATION FOR PATENT APPLICATION AND APPOINTMENT OF ATTORNEY

As a below named inventor, I hereby declare that I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention (Design, if applicable) entitled:

Title: Orthogonal Frequency Division Multiplexing (OFDM) Equalizer

the specification of which (check at least one of the first three boxes below, as applicable):

- [ ] is attached hereto.
- [ ] was filed on (day-month-year) as U.S. Application Number
- [ ] was filed on (day-month-year) as PCT Application Number
- [ ] and (if applicable) was amended on (day-month-year)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code §119 of any foreign application(s) for patent or inventor's certificate listed on the Application Data Sheet, and have also identified on the Application Data Sheet any foreign application for patent or inventor's certificate having a filing date before that of each application on which priority is claimed.

I hereby claim the benefit under Title 35 U.S. Code §119(e) of any U.S. provisional applications listed on the Application Data Sheet.

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) or PCT international application(s) designating The United States of America listed on the Application Data Sheet, 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, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application(s) and the national or PCT international filing date of this application.

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.

POWER OF ATTORNEY: I (We) hereby appoint as my (our) attorneys, with full powers of substitution and revocation, to prosecute this application including the submission and amendment of an application data sheet (37 CFR §1.76), to take instructions from my (our) agent, to receive all communications at the address stated on the Application Data Sheet, and transact all business in the Patent and Trademark Office connected therewith:

Joseph Bach	Registration No. 37,771
Pavel Pogodin	Registration No. 48,205

Full Name of First or Sole Inventor	Post Office Address
Kuei-Ann, Wen	1001, TaShueh Rd., HsinChu, Taiwan, R.O.C.
Citizenship	**Residence (city, and either state or foreign country, MPEP §605.02)**
R.O.C.	1001, TaShueh Rd., HsinChu, Taiwan, R.O.C.
Date 2003. Dec. 11	**Signature** Stella Kuei-Ann Wen

- [ ] See following page(s) for additional joint inventors.

(02Nov2001)

Full Name of First or Sole Inventor	Post Office Address
Chia-Sheng, Peng	1001, TaShueh Rd., HsinChu, Taiwan, R.O.C.
Citizenship	Residence (city, and either state or foreign country, MPEP §605.02)
R.O.C.	1001, TaShueh Rd., HsinChu, Taiwan, R.O.C.
Date 10. Dec. 2003	Signature Chia-Sheng Peng

Full Name of First or Sole Inventor	Post Office Address
Yuan-Shin, Chuang	1001, TaShueh Rd., HsinChu, Taiwan, R.O.C.
Citizenship	Residence (city, and either state or foreign country, MPEP §605.02)
R.O.C.	1001, TaShueh Rd., HsinChu, Taiwan, R.O.C.
Date 10. Dec. 2003	Signature Yuan - Shin Chuang

☐ See following page(s) for additional joint inventors.

(02Nov2001)

16085 U.S. PTO
122703

PTO/SB/05 (08-03)
Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office. U.S. DEPARTMENT OF COMMERCE

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UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	N0124/PP/HH
First Inventor	Kuei-Ann, Wen
Title	Orthogonal Frequency Division
Express Mail Label No.	ER 500849325 US

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO: **Mail Stop Patent Application**
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

17548 U.S. PTO
10/745754
122703

1. ☑ Fee Transmittal Form (e.g., PTO/SB/17)
   (Submit an original and a duplicate for fee processing)
2. ☑ Applicant claims small entity status. See 37 CFR 1.27.
3. ☑ Specification [*Total Pages* 9]
   (preferred arrangement set forth below)
   - Descriptive title of the invention
   - Cross Reference to Related Applications
   - Statement Regarding Fed sponsored R & D
   - Reference to sequence listing, a table, or a computer program listing appendix
   - Background of the Invention
   - Brief Summary of the Invention
   - Brief Description of the Drawings *(if filed)*
   - Detailed Description
   - Claim(s)
   - Abstract of the Disclosure
4. ☑ Drawing(s) (*35 U.S.C. 113*) [*Total Sheets* 1]
5. Oath or Declaration [*Total Sheets* 2]
   a. ☑ Newly executed (original or copy)
   b. ☐ Copy from a prior application (37 CFR 1.63(d)) *(for continuation/divisional with Box 18 completed)*
      i. ☐ DELETION OF INVENTOR(S)
      Signed statement attached deleting inventor(s) name in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76
7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program *(Appendix)*
8. Nucleotide and/or Amino Acid Sequence Submission *(if applicable, all necessary)*
   a. ☐ Computer Readable Form (CRF)
   b. Specification Sequence Listing on:
      i. ☐ CD-ROM or CD-R (2 copies); or
      ii. ☐ Paper
   c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. ☑ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(b) Statement *(when there is an assignee)* ☑ Power of Attorney
11. ☐ English Translation Document *(if applicable)*
12. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
13. ☐ Preliminary Amendment
14. ☑ Return Receipt Postcard (MPEP 503) *(Should be specifically itemized)*
15. ☐ Certified Copy of Priority Document(s) *(if foreign priority is claimed)*
16. ☐ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17. ☑ Other: Check for filing fee of 425.00

18. If a CONTINUING APPLICATION, *check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:*

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: .....

Prior application information: *Examiner* _____ *Art Unit:* _____

For CONTINUATION OF DIVISIONAL APPS only; The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☐ Customer Number: [ ] *OR* ☑ Correspondence address below

Name	Pavel POGODIN, Esq.				
Address	617 North Delaware Street				
City	San Mateo	*State*	California	*Zip Code*	94401
Country	USA	*Telephone*	650-954-6857	*Fax*	650-342-4403

Name (Print/Type)	Pavel Pogodin, Esq.	*Registration No. (Attorney/Agent)*	48,205
Signature		*Date*	12/27/2003

This collection of information is required by 37 CFR 1.53(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 1.14. 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: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/17 (10-03)
Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☑ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 425.00

Complete if Known	
Application Number	Unknown
Filing Date	12/27/2003
First Named Inventor	Kuei-Ann, Wen
Examiner Name	Unknown
Art Unit	Unknown
Attorney Docket No.	N0124/PP/HH

METHOD OF PAYMENT *(check all that apply)*

☑ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number

Deposit Account Name

The Director is authorized to: *(check all that apply)*

☐ Charge fee(s) indicated below ☐ Credit any overpayments

☐ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	385.00
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) ($) 385.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below		Fee Paid
Total Claims	5	-20** =	0	x 9	=	0
Independent Claims	1	- 3** =	0	x 43	=	0
Multiple Dependent				0	=	0

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 0.00

***or number previously paid, if greater; For Reissues, see above*

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for *ex parte* reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	40.00
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify)					

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) ($) 40.00

SUBMITTED BY				(Complete *(if applicable)*)	
Name (Print/Type)	Pavel Popodin Esq.	*Registration No. (Attorney/Agent)*	48,205	*Telephone*	650-954-6857
Signature				*Date*	12/27/2003

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mara E. Liepa
Merchant & Gould P.C.
P.O. Box 2903
Minneapolis MN 55402-0903

MAILED

JUN 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Conrad Barski, et al.	:	
Application No. 10/745,759	:	DECISION GRANTING PETITION
Filed: December 23, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 13342.21US01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, June 22, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 23, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW 05-04

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

COPY MAILED

MAY 28 2004

OFFICE OF PETITIONS

In re Application of :
Nierlich et al. :
Application No. 10/745,768 :
Filed: 23 December, 2003 :
Attorney's Docket No. 10378/14 :

ON PETITION

This is a decision on the petition filed on 19 April, 2004, requesting that the above-identified application be accorded a filing date of 23 December, 2003, with Pages 4, 9, and 10 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 23 December, 2003.

Accordingly, on 25 March, 2004, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application, stating that the application had been accorded a filing date of 23 December, 2003, but that Pages 4, 9, and 10 of the specification (description and claims) appeared to have been omitted.

In response, on 19 April, 2004, the present petition and Pages 4, 9, and 10 of the specification were filed. Petitioners argue that Pages 4, 9, and 10 of the specification were filed with the other application papers on 23 October, 2003, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 12/23/03, the above-identified application number, and identifies the application by the first named inventor's name, and attorney docket number, and acknowledges receipt of, *inter alia*, "Copy of Patent Application (37 pages, including title page)". Petitioners request that the application, including Pages 4, 9, and 10 of the specification, be accorded a filing date of 23 December, 2003.

A review of the record reveals that no Pages 4, 9, and 10 of the specification have been located among the application papers

received on 23 December, 2003. However, the evidence is convincing that the application papers deposited on 23 December, 2003, included Pages 4, 9, and 10 of the specification, which was subsequently misplaced in the Office. Therefore, the application, including Pages 4, 9, and 10 of the specification , is entitled to a filing date of 23 December, 2003.

A review of the official file reveals that Pages 1-3, 5-8, and 11-36, including the abstract and title page received on 23 December, 2003, are located therein. As such, it is obvious that the entire specification consisted of 36 rather than 37 pages. However, since the individual at the USPTO who compared petitioners' postcard to the items received found that the specification (including claims and abstract) as filed contained at least 37 pages, the evidence is persuasive that Pages 4, 9, and 10 were among the application papers received on 23 December, 2003, but were subsequently misplaced in the U.S. Patent and Trademark Office. In future filings, petitioners' postcard receipt should reflect the number of pages of specification and claims filed in the USPTO.

The "Notice" mailed on 25 March, 2004, is vacated.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 23-1925.

The application will be processed with the copy of Pages 4, 9, and 10 supplied on 19 April, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 23 December, 2003, using the application papers filed on that date, and the copy of Pages 4, 9, and 10 of the specification supplied with the present petition.

Telephone inquires 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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JAMES A. COLLINS
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

COPY MAILED
FEB 08 2006
OFFICE OF PETITIONS

In re Application of :
Gerd W. Nierlich et al :
Application No. 10/745,768 : ON PETITION
Filed: December 23, 2003 :
Attorney Docket No. 10378/14

This is a decision on the petition, filed February 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 October 31, 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 2836 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

Mail Date: 05/10/2010

Applicant	: Jeffrey S. Smith	: DECISION ON REQUEST FOR
Patent Number	: 7619127	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/745,771	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **713** 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

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SEP 12 2007

OFFICE OF PETITIONS

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

In re Application of	:	
PONS, et al.	:	
Application No. 10/745,775	:	DECISION ON PETITION
Filed: December 24, 2003	:	TO WITHDRAW
Attorney Docket No. **514712001400**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 20, 2007.

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

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER LLP** has been revoked by the assignee of the patent application on May 23, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PFIZER INC.**
10555 SCIENCE CENTER DRIVE
SAN DIEGO, CA 92121

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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FULBRIGHT & JAWORSKI LLP
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

MAILED

APR 08 2009

OFFICE OF PETITIONS

In re Application of
Juin-Jet Hwang et al
Application No. 10/745,827
Filed: December 24, 2003
Attorney Docket No.
65744/P001CP1CP1CP1C2/103

ON PETITION

This is a decision on the petition, filed April 7, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 17, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3768 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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

SonoSite, Inc. / Fulbright & Jaworski, L.L.P.
2200 Ross Avenue
Suite 2800
Dallas, TX 75201

Mail Date: 04/21/2010

Applicant	: Juin-Jet Hwang	: DECISION ON REQUEST FOR
Patent Number	: 7604596	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/745,827	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **602** 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

SLATER & MATSIL
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Yee-Chia Yeo et al	:	
Application No. 10/745,831	:	ON PETITION
Filed: December 24, 2003	:	
Attorney Docket No. TSM03-0947	:	

This is a decision on the petition, filed March 14, 2005, to correct the incorrectly spelled name of one of the named inventors.

The petition is **DISMISSED** as moot.

The declaration submitted with the original application listed the fourth-named inventor as "Chung-Hu Ge." The instant petition states that the name should have been "Chung-Hu Ke." Since the petition involves a name correction, rather than a name change. Therefore, the petition is dismissed as involving a moot issue.[1] A copy of the corrected filing receipt is enclosed.

No fee is required and none has been charged.

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

This matter is being referred to Technology Center AU 2815.

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

Enclosure: Corrected Filing Receipt

---

[1] MPEP 605.04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/15/08

TO SPE OF : ART UNIT 3742 Hoang Tu

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/745852 Patent No.: 7360069

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

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: _____

SPE

3742
Art Unit

OIPE IAP32
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PATENT & TRADEMARK OFFICE

Express Mail No.: **ED 162 479 289 US**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Bottje et al.

Serial No.: 10/748,874 | Art Unit: To be assigned

Filed: December 27, 2003 | Examiner: To be assigned

For: Blood and Tissue Sample Assessment Mitochondrial Function and Biochemistry As a Tool for Selection for Feed Efficiency And other Production Parameters | Attorney Docket No.: UAF-01-09

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER C.F.R. 1.181(a)

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

10/13/2005 STEUMEL1 00000001 10745874
02 FC:2252 225.00 OP

Sir:

On October 4, 2005, Applicants received a Notice of Abandonment under C.F.R. 1.53(f) or (g) regarding the above-identified patent application. (See Exhibit A). Specifically, the notice indicated that Applicants failed to respond to a Notice of Missing Parts dated March 11, 2005. (See Exhibit B). However, Applicants filed a response to the Notice of Missing Parts on June 25, 2005 along with a request for 2 months extension and payment of $290.00. (See Exhibit C). Applicants filed their response to this Notice of Missing Parts via Express Mail. (See Exhibit D). In addition, Applicants received a stamped returned postcard from the Patent and Trademark Office ("PTO") indicating receipt of Applicants' response to this Notice of Missing Parts. (See Exhibit E).

Copied from 10748874 on 11/01/2005

Therefore, pursuant to C.F.R. 1.181(a), Applicants respectfully request that the PTO withdraw from the holding of abandonment regarding the above-identified patent application

Respectfully submitted,

Date: 10/11/05

Angela Foster, Ph.D. 48,494 (Reg. No.)

ANGELA FOSTER, PH.D.
ATTORNEY AT LAW
2906 BIRCHWOOD COURT
NORTH BRUNSWICK, NEW JERSEY 08902
732-821-9363

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EXHIBIT A

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/745,874	12/27/2003	Walter Bottje	UAF-01-09

CONFIRMATION NO. 3060

ABANDONMENT/TERMINATION LETTER

34607
ANGELA FOSTER, PHD, ESQ.
2906 BIRCHWOOD COURT
NORTH BRUNSWICK, NJ 08902-3933

Date Mailed: 10/04/2005

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 03/11/2005.

- No reply was received.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item (s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);

2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP §§ 512); or

3. If the reply was filed via Express Mail, a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the Express Mail mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37

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CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571) 272-3282.

A copy of this notice MUST be returned with the reply.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199, or 1-800-972-6382
PART 1 - ATTORNEY/APPLICANT COPY

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EXHIBIT B

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EXHIBIT C

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OIPE IAP32
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PATENT & TRADEMARK OFFICE

POSTCARD ACKNOWLEDGEMENT OF RECEIPT OF PAPERS BY PATENT AND TRADEMARK OFFICE

Express Mail No.: **ED 163 626 859US** First Class Mail ( )
Date Mailed: **June 25, 2005**
Serial No.: **10/746.874** Filed: **December 27, 2003**
Inventor: **Bottje et al.**
For: **Blood and Tissue Sample Assessment of Mitochondrial Function and Biochemistry as a Tool for Selection for Feed Efficiency and other Production Parameters**

(x) Response to File Missing Parts
(x) Fee Sheet (w/ duplicate)
(x) Power Attorney (executed)
(x) Declaration (executed)
Other:

File No. UAF-01-09 Sender: Angela Foster

Copied from 10748874 on 11/01/2005

OIPE IAP32
OCT 1 1 2005
PATENT & TRADEMARK OFFICE

Express Mail No.: **ED 163 626 859 US**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Bottje et al.

Serial No.: 10/746,874

Art Unit: To be assigned

Filed: December 27, 2003

Examiner: To be assigned

For: Blood and Tissue Sample Assessment of Mitochondrial Function and Biochemistry as a Tool for Selection for Feed Efficiency and Other Production Parameters

Attorney Docket No.: UAF-01-09

EXPRESS MAIL CERTIFICATE

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

I certify that the following documents identified below are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and are addressed to the Commissioner for Patents, Attn: Mail Stop New Application, P.O. Box 1450, Alexandria, Virginia. 22313-1450:

Type of Document(s):

Declaration (executed)
Power of Attorney (executed)
Fee Sheet
Return Postcard

Respectfully submitted,

Date: 6/25/05

Angela Foster 48,494
Angela Foster, Ph.D. (Reg. No.)

ANGELA FOSTER, PH.D.
ATTORNEY AT LAW
2906 BIRCHWOOD COURT
NORTH BRUNSWICK, NEW JERSEY 08902-3933
732-821-9363

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/745,874	12/27/2003	Walter Bottje	UAF-01-09

OIPE IAP32
OCT 11 2005
PATENT & TRADEMARK OFFICE

ANGELA FOSTER, PHD., ESQ.
2906 BIRCHWOOD COURT
NORTH BRUNSWICK, NJ 08902-3933

CONFIRMATION NO. 3060
FORMALITIES LETTER
OC000000012949186

Date Mailed: 03/11/2005

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$65** for a Small Entity

- **$65** Late oath or declaration Surcharge.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

- A new oath or declaration, identifying this application number is required. The oath or declaration does not comply with 37 CFR 1.63 in that it:
- does not identify the citizenship of each inventor.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450

Copied from 10748874 on 11/01/2005

Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART I - ATTORNEY/APPLICANT COPY

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OIPE IAP32
OCT 11 2005
PATENT & TRADEMARK OFFICE

Express Mail No.: ED 163 626 859 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Bottje et al.

Serial No.: 10/746,874

Art Unit: To be assigned

Filed: December 27, 2003

Examiner: To be assigned

For: Blood and Tissue Sample Assessment of Mitochondrial Function and Biochemistry as a Tool for Selection for Feed Efficiency and Other Production Parameters

Attorney Docket No.: UAF-01-09

RESPONSE TO NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATON FILED UNDER 37 CFR 1.53(b)

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

In response to the Notice to File Missing Parts of the above identified nonprovisional application, Applicants submit the following items: (i) executed declaration; (ii) executed Power of Attorney; (iii) fee sheet; and (iv) surcharge fees.

Type of Document(s):

Declaration (executed)
Power of Attorney (executed)
Fee Sheet
Return Postcard

Respectfully submitted,

Date: 6/25/05

Angela Foster, Ph.D. 48,494 (Reg. No.)

ANGELA FOSTER, PH.D.
ATTORNEY AT LAW
2906 BIRCHWOOD COURT
NORTH BRUNSWICK, NEW JERSEY 08902-3933
732-821-9363

Copied from 10748874 on 11/01/2005

Express Mail No.: ED 163 626 859 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Bottje et al.

Serial No.: 10/746,874

Art Unit: To be assigned

Filed: December 27, 2003

Examiner: To be assigned

For: Blood and Tissue Sample Assessment of Mitochondrial Function and Biochemistry as a Tool for Selection for Feed Efficiency and Other Production Parameters

Attorney Docket No.: UAF-01-09

FEE CALCULATION SHEET

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Pursuant to 37 CFR 1.17(a)(2), Applicants respectfully request a two (2) months extension of time for the filing of their response to the enclosed Notice to File Missing Parts of Nonprovisional Application (hereinafter, "the Notice"). Accordingly, because the Notice was filed on March 11, 2005 and Applicants are a small entity, a surcharge of $65 and a 2 months extension of time late fee of $225 are due. Therefore, please find enclosed a credit card payment in the amount of **$290.00**. A copy of this sheet is enclosed for accounting purposes.

Date: 6/25/05

Respectfully submitted,

Angela Foster, Ph.D. 48,494 (Reg. No.)

ANGELA FOSTER, PH.D.
ATTORNEY AT LAW
2906 BIRCHWOOD COURT
NORTH BRUNSWICK, NEW JERSEY 08902
732-821-9363

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OIPE IAP32
OCT 11 2005
PATENT & TRADEMARK OFFICE

PTO/SB/81 (11-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

POWER OF ATTORNEY and CORRESPONDENCE ADDRESS INDICATION FORM

Application Number	10/745,874
Filing Date	December 27, 2003
First Named Inventor	Bottje et al.
Title	Blood and Tissue Sample Assessment
Art Unit	1631
Examiner Name	To be assign
Attorney Docket Number	UAF-01-09

I hereby revoke all previous powers of attorney given in the above-identified application.

I hereby appoint:

☑ Practitioners associated with the Customer Number: 34607

OR

☑ Practitioner(s) named below:

Name	Registration Number
Angela Foster	48,494

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

☐ The address associated with the above-mentioned Customer Number:

OR

☑ The address associated with Customer Number: 34607

OR

☑ Firm or Individual Name	Angela Foster, Ph.D., Esq.				
Address	2906 Birchwood Court				
City	North Brunswick	State	NJ	Zip	08902
Country	USA				
Telephone	732-821-9363	Fax	732-821-4692		

I am the:

☐ Applicant/Inventor.

☑ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Signature		Date	6/14/05
Name	Ann Kemp Vice President for	Telephone	
Title and Company	Finance and Administration		

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 2 forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. 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 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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OCT 1 1 2005
PATENT & TRADEMARK OFFICE

PTO/SB/01 (08-03)
Approved for use through 07/31/2006. OMB 0651-0032
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 contains a valid OMB control number.

DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)

☑ Declaration Submitted With Initial Filing *OR* ☐ Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number	UAF-01-09
First Named Inventor	BOTTJE, WALTER
COMPLETE IF KNOWN	
Application Number	10/745,874
Filing Date	December 27, 2003
Art Unit	To be Assign
Examiner Name	To be Assign

I hereby declare that:

Each inventor's residence, mailing address, and citizenship are as stated below next to their name.

I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

BLOOD AND TISSUE SAMPLE ASSESSMENT OF MITOCHONDRIAL FUNCTION AND BIOCHEMISTRY AS A TOOL FOR SELECTION FOR FEED EFFIENCY AND OTHER PRODUCTION PARAMETERS

(Title of the Invention)

the specification of which

☐ is attached hereto

OR

☑ was filed on (MM/DD/YYYY) 12/23/2003 as United States Application Number or PCT International Application Number 10/745,874 and was amended on (MM/DD/YYYY) _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached? Yes	No
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 21 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.**
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PTO/SB/01 (06-03)
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DECLARATION — Utility or Design Patent Application

Direct all correspondence to: ☐ Customer Number: 34607 *OR* ☑ Correspondence address below

Name ANGELA FOSTER, PH.D, ESQ.		
Address 2906 BIRCHWOOD COURT		
City NORTH BRUNSWICK	State NEW JERSEY	ZIP 08902-3933
Country USA	Telephone 732-821-9363	Fax 732-821-4692

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 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle [if any]) WALTER		Family Name or Surname BOTTJE	
Inventor's Signature Walter Bottje			Date 5-10-05
Residence: City FAYETTEVILLE	State ARKANSAS	Country USA	Citizenship USA
Mailing Address UNIVERSITY OF ARKANSAS- CENTER FOR EXECELLENCE FOR POULTRY SCIENCE 1260 W. MAPLE STREET			
City FAYETTEVILLE	State ARKANSAS	ZIP 72701	Country USA

NAME OF SECOND INVENTOR: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle [if any]) NEIL R.		Family Name or Surname PUMFORD	
Inventor's Signature Neil R Pumford			Date 5-10-05
Residence: City FAYETTEVILLE	State ARKANSAS	Country USA	Citizenship USA
Mailing Address UNIVERSITY OF ARKANSAS-CENTER FOR EXECELLENCE FOR POULTRY SCIENCES 1260 W. MAPLE STREET			
City FAYETTEVILLE	State ARKANSAS	ZIP 72701	Country USA

☐ Additional inventors or a legal representative are being named on the _____ supplemental sheet(s) PTO/SB/02A or 02LR attached hereto.

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DECLARATION

ADDITIONAL INVENTOR(S)
Supplemental Sheet

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any)	Family Name or Surname
RON	OKIMOTO

Inventor's Signature: [signature] Date: 6/7/05

FAYETTEVILLE Residence: City	AR State	USA Country	usa Citizenship

UNIVERISTY OF ARKANSAS - CENTER FOR EXCELLENCE FOR POULTRY SCIENCE
Mailing Address

1260 W. MAPLE
Mailing Address

FAYETTEVILLE City	AR State	72701 Zip	USA Country

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any)	Family Name or Surname
Mohammad	IqBAL

Inventor's Signature: Date:

FAYETTEVILLE Residence: City	AR State	USA Country	PAKISTAN Citizenship

UNIVERSITY OF ARKANSAS - CENTER FOR EXCELLENCE FOR POULTRY SCIENCE
Mailing Address

1260 W. MAPLE STREET
Mailing Address

FAYETTEVILLE City	AR State	72701 Zip	USA Country

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any)	Family Name or Surname

Inventor's Signature: Date:

Residence: City	State	Country	Citizenship

Mailing Address

Mailing Address

City	State	Zip	Country

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 21 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.**

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POSTCARD ACKNOWLEDGEMENT OF RECEIPT OF PAPERS BY PATENT AND TRADEMARK OFFICE

Express Mail No.: **ED 163 626 859US** First Class Mail ( )
Date Mailed: **June 25, 2005**
Serial No.: **10/746.874** Filed: **December 27, 2003**
Inventor: **Bottje et al.**
For: **Blood and Tissue Sample Assessment of Mitochondrial Function and Biochemistry as a Tool for Selection for Feed Efficiency and other Production Parameters**

(x) Response to File Missing Parts
(x) Fee Sheet (w/ duplicate)
(x) Power Attorney (executed)
(x) Declaration (executed)
Other:

JC59 JUN 2 5 2005
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File No. UAF-01-09 Sender: Angela Foster

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Anderson Gorecki & Manaras, LLP
Attn: John C. Gorecki
P.O BOX 553
CARLISLE, MA 01741

Mail Date: 05/13/2010

Applicant	: Peter Ashwood Smith	: DECISION ON REQUEST FOR
Patent Number	: 7643467	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/745,886	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1056** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/745,888	12/23/2003	Paddy Vishnubhatt	2996P	2522

29141 7590 08/19/2008
SAWYER LAW GROUP LLP
2465 E. Bayshore Road, Suite No. 406
PALO ALTO, CA 94303

EXAMINER
PATEL, DHAIRYA A

ART UNIT	PAPER NUMBER
2151	

NOTIFICATION DATE	DELIVERY MODE
08/19/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent@sawyerlawgroup.com

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SAWYER LAW GROUP, LLP
2465 E. Bayshore Road, Suite No. 406
PALO ALTO, CA 94303

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AUG 19 2008

In re Application of	:	
Paddy Vishnubhatt, et. al.	:	
Application No. 10/745,888	:	ON PETITION
Filed: December 23, 2003	:	
Attorney Docket No. 2996P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 2007, 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 Kelvin M. Vivian appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Notice of Appeal and $510 fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of an Appeal Brief and $510 fee filed on February 4, 2008.

This application file is being referred to Technology Center Art Unit 2151 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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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

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OFFICE OF PETITIONS

In re Application of	:	
David L. Shelton	:	
Application No. 10/745,890	:	DECISION ON PETITION
Filed: December 23, 2003	:	TO WITHDRAW
Attorney Docket No. 514712000200	:	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 23, 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 Catherine M. Polizzi 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.

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 assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed May 15, 2007 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: RINAT NEUROSCIENCE CORP
3155 PORTER DRIVE
PALO ALTO, CA 94304

cc: NICHOLAS SLEPCHUK
PFIZER INC.
EASTERN POINT ROAD
MS 8260-1611
GROTON, CT 06340

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/745,890	12/23/2003	David L. Shelton	514712000200

CONFIRMATION NO. 2529

OC000000026063247

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

Date Mailed: 09/28/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/23/2007.

- 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
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OFFICE OF PETITIONS

In re Application of
HUBER, et al.
Application No. 10/745,899
Filed: December 23, 2003
Attorney Docket No. **577172002900**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 14, 2006 and re-submitted January 17, 2007.

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

A review of the file record indicates that the power of attorney to OPTV/MOFO has been revoked by the assignee of the patent application on December 15, 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NIXON PEABODY LLP**
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 20004-2128

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jm

Mailed : 7-20-07

In re Application of	:	DECISION ON
William B Kerfoot	:	PETITION
Serial No. 10/745,939	:	
Filed: December 24, 2003		
For: DIRECTIONAL MICROPOROUS DIFFUSER AND DIRECTIONAL SPARGING		

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed June 22, 2006 and made final in the office action mailed August 15, 2006.

On June 22, 2006, a three way restriction requirement was made by the examiner. The examiner took the position that two of the groups were related as combination /subcombinations and that the third group was related to the other groups as a process and apparatus for its practice. Applicants traversed the restriction requirement in a response filed July 13, 2006 and amended the claims in an attempt to overcome the restriction requirement. The examiner responded to the traversal and made the restriction requirement final in the office action mailed August 15, 2006.

On December 18, 2006, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the inventions are independent and distinct.

DECISION

Sections 803 and 806.05(c) of the MPEP state:

803 Restriction - When Proper
Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - §

802.01 RELATED BUT DISTINCT
Two or more inventions are related (i.e., not independent) if they are disclosed as connected in at least one of design (e.g., structure or method of manufacture), operation (e.g., function or method of use), or effect. Examples of related inventions include combination and part (subcombination) thereof, process and apparatus for its practice,

process and product made, etc.

806.05(c) Criteria of Distinctness for Combination, Subcombination, or Element of a Combination
In order to establish that combination and subcombination inventions are distinct, two-way distinctness must be demonstrated.
To support a requirement for restriction, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., separate classification, status, or field of search. See MPEP § 808.02.
The inventions are distinct if it can be shown that a combination as claimed:
(A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and
(B) the subcombination can be shown to have utility either by itself or in other and different relations. When these factors cannot be shown, such inventions are not distinct.

806.05(e) Process and Apparatus for Its Practice — Distinctness
In applications claiming inventions in different statutory categories, only one-way distinctness is generally needed to support a restriction requirement. See MPEP § 806.05(c).
Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another and materially different process.
If the apparatus claims include a claim to "means" for practicing the process, the claim is a linking claim and must be examined with the elected invention. If it is ultimately allowed, rejoinder is required. See MPEP § 809.04.

Applicant's traversal to the restriction requirement maintains that the examiner has misconstrued 35 U.S.C. 121 in that the requirement has failed to adequately show that the inventions are both independent and distinct. Applicant's attention is directed to MPEP 802.01, which imparts specific situations where the requirement for restriction may be made between recognized independent inventions if they can be shown to be distinct. Specific examples include combination/subcombination and process and apparatus for its practice, which is the grouping being made in the instant application. Thus, a showing that the inventions are both independent and distinct is not required in order to require restriction. The instant groupings are considered "related" therefore the requirement for restriction is based upon adequate showing of whether the groupings are distinct.

Applicant also argues that the examiner has inadequately addressed the distinctness requirement. Specifically, applicant argues that the examiner must show that claim 12 would be patentable over and above claim 21 (combination/subcombination grouping). In the restriction requirement, the examiner gave specific reasoning for distinctness between the three groupings. The examiner stated in the office action that the combination did not require the particulars of the subcombination. This position is deemed to be reasonable in that original claim 21 requires caps with a first cap having plural inlet ports. The combination claim (12) did not require such a limitation but rather refers only to a generic "fluid communication". The restriction requirement regarding the distinctness argument between the apparatus and the method of use was not argued. On its face, this requirement also appears to meet the necessary criteria for restriction as set forth in the cited MPEP section above.

Applicants attempted to overcome the restriction requirement by amending the claims so that the subcombination claims did not refer to caps. While this amendment removed the "cap" terminology, the plural ports and specific fluid communication is still required by the subcombination and not the combination. While the combination/subcombination claims are clearly related, this does not change the basis upon with the restriction requirement was made. In addition, claims directed to an apparatus and the method of using said apparatus were still present, therefore the restriction requirement was still applicable. No arguments were set forth arguing the specific basis upon which the restriction was made between the process and apparatus (i.e. that the inventions are distinct).

Accordingly, the petition for withdrawal of the restriction requirement is **DENIED**

Jacqueline M. Stone

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

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

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OFFICE OF PETITIONS

In re Application of :
Kyeong-Hyeon Kim et al :
Application No. 10/745,940 : ON PETITION
Filed: December 23, 2003 :
Attorney Docket No. AB-1348 US

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 4, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[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).

DATE 5/14/07

APPLICATION NUMBER 10/745,940

DOC CODE IMES

DOC DATE 5/14/07

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TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/745,940

Applicant(s) : Kyeong-Hyeon Kim et al
Application No. : 10/745,940
Filed : December 23, 2003

The above-identified application has been assigned Patent No. 7,221,421 and an issue date of May 22, 2007.

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 22, 2007.

> "All reference to Patent No. 7,221,421 to Kyeong-Hyeon Kim of Republic of Korea for LIQUID CRYSTAL DISPLAY INCLUDING COMPENSATION FILM appearing in the Official Gazette of May 22, 2007 should be deleted since no patent was granted."

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis
Brad Harris
Kim Terrell
Kay Pinkney

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

VARIAN MEDICAL SYSTEMS TECHNOLOGIES, INC.
C/O BINGHAM MCCUTCHEN LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO CA 94111-4067

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JAN 1 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Gard E. Meddaugh et al	:	
Application No. 10/745,947	:	ON PETITION
Filed: December 24, 2003	:	
Attorney Docket No. VM7037512001	:	

This is a decision on the petition, filed June 27, 2007, 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 **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. No additional petition fee is required.

Petitioner submitted form PTO/SB64 instead of form PTO/SB64a (copy enclosed for your convenience). A review of the file record shows that a Request to Rescind was filed on June 27, 2007. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application in a renewed petition under 37 CFR 1.137(b).

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

By mail: Mail Stop PETITION
Commissioner for Patents
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 should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

Enclosed: Blank copy of Form PTO/SB/64a

PTO/SB/64a (01-08)
Approved for use through 01/31/2008. 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 FOR FAILURE TO NOTIFY THE OFFICE OFA FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))	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 pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b)

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. Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c))

Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after the filing. The filing date of the subsequently filed foreign or international application is _____.

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 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.

STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice 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

☐ 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.

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VARIAN MEDICAL SYSTEMS TECHNOLOGIES, INC.
C/O BINGHAM MCCUTCHEN LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO CA 94111-4067

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APR 0 1 2008

OFFICE OF PETITIONS

In re Patent No. 7,339,320	:	
Issue Date: March 4, 2008	:	
Application No. 10/745,947	:	DECISION GRANTING PETITION
Filed: December 24, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. VM7037512001	:	

This is a decision on the renewed petition, filed February 7, 2008, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on December 21, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

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

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

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

This application matured into Patent No. 7,339,320 on March 4, 2008. Therefore, no further action being required, this matter is being referred to Files Repository.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCDERMOTT WILL & EMERY LLP
2049 CENTURY PARK EAST
38th FLOOR
LOS ANGELES CA 90067-3208

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In re Application of	:	
UY ET AL.	:	
Application No. 10/745,956	:	DECISION ON PETITION
Filed: December 24, 2003	:	
Attorney Docket No. 64706-035	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 11, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 12, 2009.

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" in response to the Non-Final Office Action of May 11, 2009, (2) the non-small entity petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Anthony Knight at (571)-272-3687.

This application is being referred to Technology Center AU 2167 for appropriate action by the Examiner in the normal course of business on the reply received.

Anthony Knight
Supervisor
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

Heller Ehrman LLP
275 Middlefield Road
Menlo Park, CA 94025-3506

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JUN 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas R. Witty et al.	:	
Application No. 10/745,957	:	DECISION ON PETITION
Filed: December 23, 2004	:	TO WITHDRAW
Attorney Docket No. 2000-0002.20	:	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 6, 2006.

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

A review of the file record indicates that the power of attorney to Heller Ehrman LLP has been revoked by the assignee of the patent application on January 24, 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: **Law Office of Karen Canaan**
2225 East Bayshore Road
Suite 243
Palo Alto, CA 94303

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/14/09

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 10745984 Patent No.: 7127194 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: _____

/David M. Gray/ 2852
SPE Art Unit

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Buchanan, Ingersoll & Rooney PC
Post Office Box 1404
Alexandria, VA 22313-1404

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TECHNOLOGY CENTER 2800

In re Application of:
Kenichi Nakagawa
Serial No.: 10/745,999
Filed: December 29, 2003
Attorney Docket No.: 034053-002

DECISION ON PETITION TO RESTART PERIOD FOR REPLY

This is a decision on the petition to reset the period for reply filed on July 12, 2006.

The petition is **GRANTED-IN-PART**.

An Office action was mailed on August 23, 2005 but was received back at the USPTO Mail Center from the U.S. Postal Service on August 26, 2005. Afterwards, although there is no record of remailing in the application file or in PALM (Patent Application Locating and Monitoring System), the Office action was apparently remailed and received at the correspondence address on July 7, 2006.

The provisions of MPEP 710.06 (I) provide:

The Office will grant a petition the restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when the following criteria are met:

(A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address:

(B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and

(C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

As evidence that the Office action was received by the petitioner on July 7, 2006, petitioner provides a copy of the envelope stated to have contained the August 23, 2005 Office action. The envelope has a postmark date of July 6, 2006 stamped thereon.

The petition is found to have met all the criteria for the granting of a petition to reset a period for

reply due to late receipt of an Office action. However, the present petition is only granted-in-part since petitioner requests both the restarting of the time period and the issuance of a new Office action. The petition acknowledges receipt of the Office action by the petitioner so there is no need to issue a new Office action.

At this point in time, it obviously does not make sense to reset the period for reply from the date of receipt of the Office action. Thus, the period for response to the Office action dated August 23, 2005 is hereby reset to run three months from the mail date of this decision.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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APR 19 2005

OFFICE OF PETITIONS

In re Application of
Sylvia J. Downing, et al.
Application No. 10/746,023
Filed: December 24, 2003
Attorney Docket No. 42P15879

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(d) filed March 23, 2005, requesting that the above-identified application be accorded a filing date of December 24, 2003, instead of the presently accorded date of December 29, 2004.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on December 24, 2003. The petition is accompanied by, inter alia, a copy of the USPS Track/Confirm record showing that the package bearing Express Mail label No. EV 387143706 US was accepted at the Santa Ana, CA location on December 24, at 4:53pm. The same Express Mail receipt number appears on the Application Transmittal Letter found in the file.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on December 24, 2003.

The petition is granted.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **December 24, 2003**.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/9/10

TO SPE OF : ART UNIT 2823 (2800)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/746,044 Patent No.: 7,005,312

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

Ernest C. White, LIE
Randolph Sq. Ste 9D62A
703-756-1590

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.

Changes to drawings are approved

SPE: /Matthew S. Smith/
ART UNIT 2823

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/9/10

TO SPE OF : ART UNIT 2823 (2800)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/746,044 Patent No.: 7,005,312

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

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

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.

Changes to drawings are approved

SPE: /Matthew S. Smith/
ART UNIT 2823

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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QUINE INTELLECTUAL PROPERTY
LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

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OFFICE OF PETITIONS

In re Application of	:	
MESSING, Robert O. et al.	:	
Application No. 10/746,049	:	DECISION ON PETITION
Filed: December 23, 2003	:	TO WITHDRAW
Attorney Docket No. **12101-030-999**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 19, 2007.

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

A review of the file record indicates that the power of attorney to QUINE INTELLECTUAL PROPERTY has been revoked by the assignee of the patent application on January 11, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JONES DAY**
222 EAST 41ST ST
NEW YORK NY 10017

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KONRAD RAYNES & VICTOR, LLP
ATTN: INT77
315 SOUTH BEVERLY DRIVE SUITE 210
BEVERLY HILLS, CA 90212

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of :
Eshwari P. Komarla et al :
Application No. 10/746,051 : ON PETITION
Filed: December 24, 2003 :
Attorney Docket No. P17723

This is a decision on the petition, filed October 25, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2185 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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Milan Patel
c/o Nokia Mobile Phones (Patent Dept.)
Mail Stop 1-4-755
6000 Connection Drive
Irving TX 75039

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DEC 0 1 2006
OFFICE OF PETITIONS

In re Application of Bell et al. Application No. 10/746,054 Filed: August 23, 2003 Attorney Docket Number: 042933/28264 Title of Invention: Communication Device with Rotating Housing	:	ON PETITION

This is a decision on the petition filed August 25, 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 May 8, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 9, 2006. A Notice of Abandonment was mailed on September 6, 2006.

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must

make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 submitted.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Andrew Spence
Alston & Bird LLP
101 South Tryon Street, Suit 4000
Charlotte, NC 28280-4000

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Fernandez & Associates, LLP
PO Box D
Menlo Park, CA 94026-6402

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AUG 1 8 2004

OFFICE OF PETITIONS

In re Application of
Iourcha, Prokopenko, Paltashev, and Gladding
Application No.: 10/746,055
Filed: December 23, 2003
Attorney Docket No: VIA-P004
For: METHOD AND APPARATUS FOR TRIANGLE RASTERIZATION WITH CLIPPING AND WIRE-FRAME MODE

: DECISION ACCORDING RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed June 7, 2004, and in duplicate on July 19, 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 23, 2003, without a properly executed declaration. On April 7, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a declaration signed by inventor Iourcha and a surcharge of $65.00 for the late filing of the declaration. On June 7, 2004, the instant petition was filed.

Petitioner has shown that inventor Iourcha has constructively refused to join the filing of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

The amount of $210.00 that was remitted for an extension of time within the second month will be refunded, in due course, as the first petition under 37 CFR 1.47(a) filed in response to the Notice to File Missing Parts of Nonprovisional Application was received prior to the expiration of the two month period allowed for reply. Deposit account 50-0482 will be charged $65.00 for the surcharge.

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

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mr. Konstantine Iourcha
ATI Research Silicon Valley, Inc.
4555 Great American Parkway, Suite 501
Santa Clara, CA 95054

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AUG 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Iourcha, Prokopenko, Paltashev, and Gladding :
Application No. 10/746,055 :
Filed: December 23, 2003 :
Attorney Docket No. VIA-P004 :
For: METHOD AND APPARATUS FOR TRIANGLE RASTERIZATION WITH CLIPPING AND WIRE FRAME MODE

Dear Mr. Iourcha:

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

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. It should be further noted that any assignee of record of the entire interest in the application may request that the inventor(s) be excluded from access to the application. If the request is granted, you will be informed of that fact and will only be permitted to inspect the application on sufficient showing of why such inspection is necessary to conserve your rights. See *MPEP* 106, citing, *In re The Kellog Switchboard & Supply Company*, 1906 C.D. 274 (Comm'r Pat. 1906).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Fernandez & Associates, LLP
PO Box D
Menlo Park, CA 94026-6402

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 8/17/04

2 Serial/Patent # 10/746,055

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time	—	7/19/04	$ 210.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 210.00

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [ ] Credit Deposit A/C #:

9 50--0482

10 REASON:

- [X] Overpayment
- [ ] Duplicate Payment
- [ ] No Fee Due (Explanation):

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Kenya McLaughlin TITLE: Petitions Atty.

SIGNATURE: Kenya McLaughlin PHONE: 305-1010

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kelly DATE: 8/18/04

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
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Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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SOUTHFIELD, MI 48075-1238

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MAR 26 2007

OFFICE OF PETITIONS

In re Application of :
Matthew P. Wojciechowski et al :
Application No. 10/746,064 : DECISION ON PETITION
Filed: December 26, 2003 :
Atty Docket No. 2003-065-TAP :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before September 1, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 1, 2006. Accordingly, the date of abandonment of this application is September 2, 2006. A Notice of Abandonment was mailed on October 3, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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LAW OFFICE OF COLLEN A. BEARD, LLC
P. O. BOX 1064
DECATUR, GA 30031-1064

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JAN 1 1 2010

In re Application of	:	
William M. HUNG, *et al.*	:	
Application No. 10/746,085	:	DECISION ON PETITION
Filed: December 24, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **API 100 DIV**	:	

This is a decision on the petition filed in the above-identified application.

The petition is **dismissed**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $810.

The petition in the above-identified application was accompanied by a fee payment of $770. Unfortunately, this fee was deficient by $40 and no deposit account information or authorization was given. No consideration on the merits can be given that petition until the required fee is received.

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 Monica A. Graves at (571) 272-7253.

Christopher Bottorff
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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LAW OFFICE OF COLLEN A. BEARD, LLC
P.O. BOX 1064
DECATUR, CA 30031-1064

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In re Application of	:	
William M. HUNG, et *al.*	:	
Application No. 10/746,085	:	DECISION ON PETITION
Filed: December 24, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **API 100 DIV**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 14, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 12, 2009. Accordingly, the date of abandonment of this application is September 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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TROJAN LAW OFFICES
9250 WILSHIRE BLVD
SUITE 325
BEVERLY HILLS, CA 90212

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OCT 24 2005

OFFICE OF PETITIONS

In re Application of :
Deng : DECISION ON PETITION
Application No. 10/746,103 :
Filed: December 26, 2003 :
For: PLASTIC SHELL HEATER :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 16, 2005 for failure to timely reply to the non-final Office action mailed December 15, 2004. The Notice set a three (3) month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed June 30, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application will be forwarded to Technology Center 3700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of :
Larios, et al. : LETTER REGARDING PTA
Application No. 10/746,114 :
Filed: December 23, 2003 :
Atty. Dkt. No.: : 7103/402 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed March 11, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed December 30, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 535 days. Applicants indicate that this may extend the term of the patent by too many days because the Office may have incorrectly calculated the reduction related to the amendment filed June 5, 2007 in response to the non-final Office action dated December 7, 2006.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 531 days.

The application was properly accorded an adjustment of 652 days in accordance with 37 CFR 1.702(a)(1). A non-final Office action was mailed December 7, 2006. A response to the non-final Office action was filed June 5, 2007, and not June 1, 2007 as previously determined. Thus, the adjustment of 652 is properly reduced 90 days in accordance with 37 CFR 1.704(b). The reduction commenced March 8, 2007 and ended June 5, 2007. The adjustment was properly reduced an additional 31 days in accordance with 37 CFR 1.704(b) in connection with the amendment filed April 7, 2008 in response to the non-final Office action mailed December 7, 2007.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 531 days (adjustment totalling 652 less reduction totalling 121 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Data Management for issuance of the patent.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

Day : Sunday
Date: 6/14/2009

PALM INTRANET

Time: 12:04:37

PTA Calculations for Application: 10/746114			
Application Filing Date:	12/23/2003	PTO Delay (PTO):	652
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	117
Post-Issue Petitions:	0	Total PTA (days):	531
PTO Delay Adjustment:	-4		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
118	06/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
111	12/30/2008	MAIL NOTICE OF ALLOWANCE			
110	12/24/2008	ISSUE REVISION COMPLETED			
109	12/24/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
108	12/24/2008	DOCUMENT VERIFICATION			
107	12/22/2008	NOTICE OF ALLOWABILITY			
106	10/24/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
102	10/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
101	10/28/2008	DATE FORWARDED TO EXAMINER			
100	10/24/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
99	10/28/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
98	10/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
97	10/24/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
95	07/28/2008	EXPORT TO INITIAL DATA CAPTURE			
94	07/24/2008	MAIL EXAMINER'S AMENDMENT			
93	07/24/2008	MAIL NOTICE OF ALLOWANCE			
92	07/23/2008	ISSUE REVISION COMPLETED			
91	07/22/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
90	07/22/2008	DOCUMENT VERIFICATION			
89	07/22/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			

88	07/22/2008	CASE DOCKETED TO EXAMINER IN GAU			
87	07/21/2008	EXAMINER'S AMENDMENT COMMUNICATION			
86	07/21/2008	NOTICE OF ALLOWABILITY			
85	04/07/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
81	04/07/2008	MISCELLANEOUS INCOMING LETTER			
80	04/07/2008	REFERENCE CAPTURE ON IDS			
79	04/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	77
78	05/17/2008	DATE FORWARDED TO EXAMINER			
77	04/07/2008	RESPONSE AFTER NON-FINAL ACTION		31	69
76	04/07/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
75	04/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
74	04/01/2008	CASE DOCKETED TO EXAMINER IN GAU			
71	03/14/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
70	02/27/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
69	12/07/2007	MAIL NON-FINAL REJECTION			
68	12/06/2007	NON-FINAL REJECTION			
57	11/14/2007	DATE FORWARDED TO EXAMINER			
56	11/07/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
55	11/14/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
54	11/07/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	11/07/2007	REFERENCE CAPTURE ON IDS			
52	11/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	11/28/2007	CASE DOCKETED TO EXAMINER IN GAU			
44	11/14/2007	CASE DOCKETED TO EXAMINER IN GAU			
40	11/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	11/07/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	09/06/2007	FINISHED INITIAL DATA CAPTURE			
37	08/10/2007	EXPORT TO INITIAL DATA CAPTURE			
36	08/07/2007	MAIL NOTICE OF ALLOWANCE			

35	08/07/2007	MAIL EXAMINER'S AMENDMENT			
34	08/04/2007	ISSUE REVISION COMPLETED			
33	08/04/2007	DOCUMENT VERIFICATION			
32	08/04/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
31	08/04/2007	EXAMINER'S AMENDMENT COMMUNICATION			
30	08/04/2007	NOTICE OF ALLOWABILITY			
29	06/11/2007	DATE FORWARDED TO EXAMINER			
28	06/01/2007	RESPONSE AFTER NON-FINAL ACTION		86	23
27	06/01/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	02/12/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
24	02/07/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
23	12/07/2006	MAIL NON-FINAL REJECTION	652		-1
22	12/06/2006	NON-FINAL REJECTION			
21	06/07/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	07/11/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19.7	07/11/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	07/11/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	09/03/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	09/03/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	06/07/2004	REFERENCE CAPTURE ON IDS			
15.7	06/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	06/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	06/23/2004	APPLICATION RETURN FROM OIPE			
13	06/23/2004	APPLICATION IS NOW COMPLETE			
12	06/23/2004	APPLICATION RETURN TO OIPE			
11	06/23/2004	APPLICATION RETURN FROM OIPE			
10	06/23/2004	APPLICATION RETURN TO OIPE			
9	06/23/2004	APPLICATION DISPATCHED FROM OIPE			
8	06/23/2004	APPLICATION IS NOW COMPLETE			

7	06/07/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	06/07/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	04/07/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	02/25/2004	CLEARED BY OIPE CSR			
3	02/25/2004	CASE CLASSIFIED BY OIPE			
2	01/20/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/23/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SCHNADER HARRISON SEGAL & LEWIS, LLP
1600 MARKET STREET
SUITE 3600
PHILADELPHIA PA 19103

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SEP 15 2008

In re Application of	:	
BOLER, Lewyn B. Jr.	:	
Application No. 10/746,116	:	DECISION ON PETITION
Filed: December 24, 2003	:	TO WITHDRAW
Attorney Docket No. **3008835-0009-CIP**	:	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 05, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Ronald Ventola, II on behalf of all attorneys of record who are associated with customer No. 22469. All attorneys/agents associated with the Customer Number 22469 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Lewyn Boler, Jr. at the address indicated below.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **LEWYN BOLER, JR.**
1000 EAST CHANNEL STREET
STOCKTON CA 95205

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PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/746,127
Filing Date	12/23/2003
First Named Inventor	Witty
Art Unit	1743
Examiner Name	Siefke, Samuel P.
Attorney Docket Number	40422-0003

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

Approved 3-14-07
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

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

☐ all the attorneys/agents of record.

☐ The attorneys/agents (with registration numbers) listed on the attached paper(s), or

☑ The attorneys/agents associated with Customer Number **25213**

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Assignee of Record has requested transfer of responsibility for application

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.

2. ☑ Change the correspondence address and direct all future correspondence to:

☐ Customer Number:

OR

☑ Firm or Individual Name	Mintz, Levin, Cohn, Ferris, Glovsky and Popeo PC				
Address	1400 Page Mill Road				
Address					
City	Palo Alto	State	CA	ZIP	94034
Country	US				
Telephone	650 251-7713	Fax			
Name	Paul Davis				
Signature		Registration No.	29,294		
Date	12/06/2006	Telephone	650 324-7041		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 C.F.R. 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 C.F.R. 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 by 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.

SV 2249328 v1 12/6/06 12:07 PM (40422.0003)

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CYTYC CORPORATION
250 CAMPUS DRIVE
MARLBOROUGH, MA 01752

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OFFICE OF PETITIONS

In re Application of :
Robert Sakal, et al. :
Application No. 10/746,128 : ON PETITION
Filed: December 23, 2003 :
Attorney Docket No. 12.027011 :

This is a decision on the petition, filed December 5, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed August 4, 2006. A Notice of Abandonment was mailed on November 29, 2006. In response, on December 5, 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 corrected drawings; (2) the petition fee of $1,500 and (3) an adequate statement of unintentional delay.

Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Publications to oversee the review of the drawing filed December 5, 2006.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/21/2010

Applicant	: Ronald W. Heil JR.	: DECISION ON REQUEST FOR
Patent Number	: 7643875	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/746,134	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **168** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 08-07

Paper No:__

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JOSEPH J. BUCZYNSKI
ROYLANCE, ABRAMS,
BERDO & GOODMAN, L.L.P.
SUITE 600
1300 19TH STREET, N.W.
WASHINGTON DC 20036

In re Application of	:	
Park	:	DECISION
Application No. 10/746,145	:	
Filing Date: 29 December, 2003	:	
Attorney Docket No.: 45915	:	

This is a decision on the petition filed on 10 August, 2006, and properly considered as a request under 37 C.F.R. §1.181 for the withdrawal of the holding of abandonment.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record indicates that:

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 9 January, 2006, with reply due absent extension of time on or before Monday, 10 April, 2006;

- the application went abandoned by operation of law after midnight 9 April, 2006;

- the Office mailed the Notice of Abandonment on 28 July, 2006;

- on 10 August, 2006, Petitioner filed the instant petition, recited that a reply in the form of an amendment was timely submitted, and provided a copy of that reply–notably there is no certificate of mailing/transmission thereon–and a date-stamped (10 April, 2006) receipt card evidencing receipt of the referenced papers by the Office.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document,

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

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

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

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

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

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

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is

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

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied showing requirement described above–and, thus, satisfied his burden herein.

CONCLUSION

Because it appears that Petitioner has not carried his burden in the instant matter, the instant petition under 37 C.F.R. §1.181 hereby is **granted** and the 28 July, 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 2800 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[10]) 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

[10] 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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Buckley, Maschoff & Talwalkar LLC
Five Elm Street
New Canaan CT 06840

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OFFICE OF PETITIONS

In re Application of	:
Somasekhar et al.	:
Application No. 10/746,148	: DECISION GRANTING
Filed: December 24, 2003	: PETITION
Attorney Docket No. P17331	:

This is a decision on the petition filed May 12, 2004, requesting that the above-identified application be accorded a filing date of December 24, 2003, instead of the presently accorded filing date of December 25, 2003.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on December 24, 2003, pursuant to the requirements of 37 CFR 1.10. In support, petitioners supplied a copy of Express Mail label EL963891158US which bears a "date in" of December 25, 2003. The petition is also accompanied by a copy of the Utility Patent Application Transmittal form with the above-mentioned Express Mail number, a copy of an Express Mail Log book that came into being within one business day of the deposit of the application.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation.

> If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date.[1] (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) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

A review of the copy of the Express Mail receipt EL963891158US indicates a "date in" of December 25, 2003. However, a review of the U.S. Postal Service's tracking system shows Express Mail package bearing label EL963891158US was accepted and enroute on December 24, 2003.

In view thereof, the petition is GRANTED.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for

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[1] See 37 CFR 1.6(a).

correction of the filing date to December 24, 2003.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 23,2007

TO SPE OF : ART UNIT 3654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/746,160 Patent No.: 7077353 B1

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

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Comments: _____

/Peter M. Cuomo/

UNITED STATES PATENT AND TRADEMARK OFFICE

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HELLER ERMAN LLP
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MENLO PARK, CA 94025-3506

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OFFICE OF PETITIONS

In re Application of :
Vincent Danial FITZPATRICK, et al :
Application No. 10/746,176 : ON PETITION
Filed: December 22, 2003 :
Attorney Docket No. 39766-0229R1C1D1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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 29, 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). A two (2) month extension of under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; 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.

The Associate Power of Attorney filed on May 1, 2007, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b) was eliminated). *See* MPEP § 402.02 and Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (June 22, 2004). Although the paper has been placed in the file, the names of the patent practitioners listed in Customer No. 25213 have not been made of record. However, as requested, and since the Associate Power of Attorney was signed by an attorney of record, the correspondence address has been changed to the address noted in the document.

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

This application is being referred to Technology Center AU 1647 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 Page
Petitions Examiner
Office of Petitions

cc: JEFFREY P. BERHARDT
GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10746176 Total Records Found: 6

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
04/11/2008	00005613	4	1453	$1,540.00	04/10/2008	DA 071700
04/11/2008	00005614	4	1801	$810.00	04/10/2008	DA 071700
10/30/2007	00000058	1	1801	$810.00	10/29/2007	DA 081641
10/30/2007	00000059	1	1252	$460.00	10/29/2007	DA 081641
03/22/2007	00004442	4	1253	$1,020.00	03/22/2007	DA 132725
01/05/2004	00000090	1	1001	$770.00	12/22/2003	CK

UNITED STATES PATENT AND TRADEMARK OFFICE

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HELLER EHRMAN, LLP
4350 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO, CA 92122

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Vincent Danial Fitzpatrick, et al.	:	
Application No. 10/746,176	:	DECISION ON PETITION
Filed: December 22, 2003	:	TO WITHDRAW
Attorney Docket No. 39766-0229RIC1D1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 1, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Heller Ehrman, LLP has been revoked by the assignee of the patent application on December 5, 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: GOODWIN PROCTER, LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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

Arnold & Porter LLP (24126)
Attn: IP Docketing Dept.
555 Twelfth Street, N.W.
Washington, DC 20004-1206

Mail Date: 04/21/2010

Applicant	: Vincent Danial Fitzpatrick	: DECISION ON REQUEST FOR
Patent Number	: 7659368	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/746,176	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **921** 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
WASHINGTON, D.C. 20231
www.uspto.gov

9-4-07

caf

In re Application of: SU-JIN HAN et al.
Application No. 10/746,181
Filed: December 29, 2003
For: SEPARATOR FOR LITHIUM BATTERY AND LITHIUM BATTERY EMPLOYING THE SAME AND METHOD OF MANUFACTURE THEREOF

DECISION ON PETITION

This is a decision on the PETITION TO RESTART PERIOD FOR RESPONSE filed on August 10, 2007.

On May 15, 2007, an office action was mailed to Applicant. A three month shortened statutory period was set in the office action. In the office action, claims 1-8,17 and 18 were rejected under 35 USC 102 as being anticipated by "Patent Abstracts of Japan 11-060764". It was noted that in the office action several paragraphs of the Japanese Patent were cited in rejecting the claims but no English language translation was included with the office action.

Applicants request that the period for response be restarted so that it expires no less than three (3) months from August 7, 2007 on which the English-language translation was provided to Applicants by the examiner.

DECISION

The office action, along with a copy of the translation, was remailed August 20, 2007. The time period for response has been set to expire three (3) months from August 20, 2007. Therefore the petition is moot.

Jacqueline M. Stone

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

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005-1202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 07 2007

OFFICE OF PETITIONS

In re Application of	:	
SATO, et al.	:	
Application No. 10/746,198	:	DECISION GRANTING PETITION
Filed: December 26, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **FUJM 18.431A**	:	

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 13, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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ALEXANDRIA, VA 22313-1450
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PILLSBURY WINTHROP LLP
2475 HANOVER STREET
PALO ALTO, CA 94304-1114

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DEC 10 2004
OFFICE OF PETITIONS

In re Application of :
White, et al. :
Application No. 10/746,203 : NOTICE
Filed: December 23, 2003 :
Docket No. 067810/0306436 I-022 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed November 15, 2004.

As set forth at 37 CFR 1.28(c), the deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby **accepted.**

The change of status to a large entity has been entered and made of record.

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

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JUL 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Mario R. Capecchi et al.	:	
Application No. 10/746,207	:	DECISION ON PETITION
Filed: December 23, 2003	:	TO WITHDRAW
Attorney Docket No. 00846-32685.2CON.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 22, 2006.

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

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on April 5, 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 571-272-2291.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Thorpe North & Western, LLP**
8180 South 700 East, Suite 200
Sandy, UT 84070

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

KIMBERLY-CLARK WORLDWIDE, INC.
Tara Pohlkotte
2300 Winchester Rd.
NEENAH, WI 54956

Mail Date: 04/21/2010

Applicant	: Paul T. Van Gompel	: DECISION ON REQUEST FOR
Patent Number	: 7621900	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/746,212	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1391** 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

IBM CORP. (LOT)
C/O Ostrow, Kaufman & Frankl LLP
136 E. 57th Street
12th Floor
NEW YORK NY 10022

In re Application of Charles W. Kaufman et al. Application No. 10/746,221 Filed: December 23, 2003 Attorney Docket Number: 600177-074 Title: METHOD AND SYSTEM FOR PROVIDING A LOGIN AND ARBITRARY USER VERIFICATION FUNCTION TO APPLICATIONS	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.137(B)

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 1, 2008, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed November 21, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on February 22, 2008. A notice of abandonment was mailed on June 6, 2008.

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

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

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. § 1.137(b) is set forth in 37 C.F.R. § 1.17(m) as being $1620 for a large entity and $810 for a small entity. Although Petitioner indicated in this petition that a petition fee was included with the petition, there is no record of said fee actually having been received. Moreover, the electronic file does not contain a general authorization to charge any fee deficiencies to a Deposit Account (other than those that were filed prior to the Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address of December 11, 2007).

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

> 35 U.S.C. 41(a)(7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), **the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived** (emphasis added).

> In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.
>
> The phrase "unless the petition is filed under [35 U.S.C.] 133 or 151" signifies that petitions to revive filed on the basis of "unavoidable" delay (under 35 U.S.C. 133 or 151) are a subset of petitions to revive filed on the basis of unintentional delay. That is, "unavoidable" delay and "unintentional" delay are not alternatives; "unavoidable" delay is the epitome of "unintentional" delay. Any petition to revive an abandoned application or lapsed patent must meet the minimal "unintentional" delay threshold, and an applicant need only pay the fee specified in 37 CFR 1.17(l) (rather than the fee specified in 37 CFR 1.17(m)) if the petition is also accompanied by an adequate showing 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.

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

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

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

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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.

The general phone number for the Office of Petitions that should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[5] 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

cc: Jeanpierre Giuliano
Dreier LLP
499 Park Avenue
New York, New York 10022

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

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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAR 25 2010

OFFICE OF PETITIONS

In re Application of	:	
O'Farrell et al.	:	DECISION ON PETITION
Application No. 10/746,229	:	TO WITHDRAW
Filed: December 23, 2003	:	FROM RECORD
Attorney Docket No. 026276-000310US	:	

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 26, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on March 10, 2010 the power of attorney to Townsend and Townsend and Crew, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Barry G Magidoff, Esq., Paul J. Sutton, Esq.
Sutton Magidoff LLP
909 Third Avenue - 27 FL
New York NY 10022

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OFFICE OF PETITIONS

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

In re Application of	:	
Andrew D. Murdin, et al.	:	
Application No. 10/746,251	:	DECISION ON PETITION
Filed: December 29, 2003	:	TO WITHDRAW
Attorney Docket No. 032931-0265	:	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 30, 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 March 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: SMART & BIGGAR
P.O. BOX 2999, STATION D
900-55 METCALFE STREET
OTTAWA ON K1P5Y-6 CA CANADA

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Aug. 13, 2008

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/746251 Patent No.: 7314869

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

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

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

Comments: _____

ROBERT MONDESI
SUPERVISORY PATENT EXAMINER
Art Unit 1645

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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AUG 2 2005

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

In re Application of	:
Wannerberger et al.	: PETITION TO MAKE SPECIAL
Serial No.: 10/746,254	:
Filed: December 29, 2003	:
Attorney Docket No.: 052209-0110	

This is in response to applicants' petition filed July 22, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was received. Therefore, the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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

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OFFICE OF PETITIONS

In re Application of	:	
Kristen Wannerberger et al	:	
Application No. 10/746,254	:	ON PETITION
Filed: December 29, 2003	:	
Attorney Docket No. 052209-0110	:	

This is a decision on the petition, filed October 31, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1615 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH VA 22042

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APR 2 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	DECISION ON PETITION
Application No. 10/746,257	:	TO WITHDRAW
Filed: December 29, 2003	:	FROM RECORD
Attorney Docket No. 249/429	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 13, 2009.

The request is **DISMISSED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on March 13, 2009 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. It is suggested that petitioner submit a properly completed PTO/SB/83 (effective date May 12, 2008). Please note that there is a Certifications section provided on PTO/SB/83, along with a section for the reason for withdrawal, which must be completed.

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

There is an outstanding Office action mailed April 21, 2009 that requires a reply.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LEE & MORSE, P.C.
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APR 2 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	DECISION ON PETITION
Application No. 10/746,258	:	TO WITHDRAW
Filed: December 29, 2003	:	FROM RECORD
Attorney Docket No. 249/428	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 13, 2009.

The request is **DISMISSED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on March 13, 2009 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. It is suggested that petitioner submit a properly completed PTO/SB/83 (effective date May 12, 2008). Please note that there is a Certifications section provided on PTO/SB/83, along with a section for the reason for withdrawal, which must be completed.

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

There is an outstanding Office action mailed February 25, 2009 that requires a reply.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of :
HASHIMOTO, et al. :
Application No. 10/746,264 : DECISION ON PETITION
Filed: December 29, 2003 : TO WITHDRAW
Attorney Docket No. BJS-4093-5 : 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 4, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request do 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: **FITZPATRICK CELLA HARPER & SCINTO**
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY, 12TH FLOOR
NEW YORK, NY 10036

Mail Date: 04/21/2010

Applicant	: Alexander A. Maltsev	: DECISION ON REQUEST FOR
Patent Number	: 7593347	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/746,265	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1261** 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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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/30/2010

Applicant	: Rolf Krane	: DECISION ON REQUEST FOR
Patent Number	: 7613600	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/746,272	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **997** 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
10/746,284	12/23/2003	2641	0.00	APPL-P3174	11	14	3

CONFIRMATION NO. 8439

CORRECTED FILING RECEIPT

OC000000012910907

28661
SIERRA PATENT GROUP, LTD.
P O BOX 6149
STATELINE, NV 89449

Date Mailed: 06/09/2004

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

Applicant(s)

Giovanni M. Agnoli, Residence Not Provided;
Andrew Yanowitz, Residence Not Provided;

Assignment For Published Patent Application

Apple Computer, Inc.;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/478,336 06/13/2003

Foreign Applications

If Required, Foreign Filing License Granted: 04/08/2004

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Synthesis of vertical blanking signal

Preliminary Class

704

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

GRANTED

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

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

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

NOT GRANTED

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

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GAZDZINSKI & ASSOCIATES, P.C.
16644 WEST BERNARDO DRIVE
SUITE 201
SAN DIEGO, CA 92127

Mail Date: 04/21/2010

Applicant	: Giovanni M. Agnoli	: DECISION ON REQUEST FOR
Patent Number	: 7668099	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/746,284	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1817** 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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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
Richard C. EWERS, et al
Application No. 10/746,286
Filed: December 23, 2003
Attorney Docket No. 021496-000310US

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 6, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP, has been revoked by the assignee of the patent application on October 30, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHNEY HAN
LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD
SUITE 100
PALO ALTO, CA 94303

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SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of
Richard C. EWERS, et al
Application No. 10/746,286
Filed: December 23, 2003
Attorney Docket No. 021496-000310US

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 6, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP, has been revoked by the assignee of the patent application on October 30, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

April Wise
Petitions Examiner
Office of Petitions

cc: JOHNEY HAN
LEVINE BAGADE HAN LLP
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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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In re Application of
Masanori Kadowaki
Application No. 10/746,326
Filed: December 23, 2003
Attorney Docket No. FUJZ 20.833

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 9, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before April 7, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 7, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 8, 2008. A Notice of Abandonment was mailed on May 2, 2008. In response, on May 9, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $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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ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

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OFFICE OF PETITIONS

In re Application of Sven Mattisson Application No. 10/746,330 Filed: December 23, 2003 Attorney Docket No. P18343-US1	: : : : :	ON PETITION

This is a decision in response to the petition, filed March 9, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 31, 2007. This decision precedes the mailing of a Notice of Abandonment. However, on March 9, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2618 for appropriate action by the Examiner in the normal course of business on the reply received March 9, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of	:	
Henson, et al.	:	
Application No. 10/746,334	:	DECISION ON PETITION
Filed: December 23, 2003	:	
Attorney Docket No. IR-2432 CIP	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 1, 2007.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action, mailed October 31, 2006. This Office action set a shortened statutory period for reply of one (1) month. The Office mailed a Notice of Abandonment on May 16, 2007, stating that no reply had been received.

Petitioner argues that he did timely file a response. In support thereof, petitioner has included a copy of the response (an Election), bearing a Certificate of Mailing under 37 CFR 1.8 dated November 29, 2006. Accordingly, it is concluded that petitioner timely filed a response pursuant to 37 CFR 1.8.

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

The matter is being forwarded to Group Art Unit 2813 for consideration of the response filed with the instant petition on June 1, 2007 (Certificate of Mailing dated November 29, 2006).

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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JJGJR.: 02-05

Paper No: __

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

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OFFICE OF PETITIONS

In re Application of
Fitter, et al :
Application No. 10/746,339 : ON PETITION
Filed: 29 December, 2003 :
Attorney Docket No. 0641-0258P :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 6 December, 2004.

The petition is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and 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 "Petition under 37 C.F.R. §1.47";

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

BACKGROUND

The record indicates:

- the application was filed on 29 December, 2003, without, *inter alia*, a fully executed oath or declaration; and

- on 4 May, 2004, the Office mailed a Notice to File Missing Parts requiring that, *inter alia*, a fully signed oath/declaration (with surcharge) or a petition under 37 C.F.R. §1.47 in its stead be filed as the reply;

- Petitioner Gerald M. Murphy, Jr. (Reg. 28,977) (signed by Kristi Rupert (Reg. No. 45,702) sets forth in the petition that the non-signing inventors Stephen Fitter (Mr. Fitter), Jan Kazenwadel (Mr. Kazenwadel), Robert James (Mr. James) and Danielle Horley (Ms. Horley) have been presented with the entire application (description, claims, abstract and drawings), but have refused to sign the oath/declaration, however, the declaration by one John V. Turner, who identifies himself as Director of Medimolecular Pty. Ltd., the alleged assignee, clearly states (as do the supporting transmittal letters) that what was transmitted included only the oath/declaration (and assignment)–not the entire application;

- there is no indication of an effort to ensure the currency of the addresses for the non-signing inventors; and

- the names and addresses of the inventors are not contained in/on the oath/declaration submitted–the assignee's designated authority only signs on behalf of the non-signing inventors, moreover, there must be some indication of by what authority from the assignee that person signs.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

§1.63 Oath or declaration.

(b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:

(1)Identify the application to which it is directed;

(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

The commentary at MPEP §409.03(d) provides:

409.03(d) Proof of Unavailability or Refusal

INVENTOR CANNOT BE REACHED

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached

should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

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. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

> When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application--and evidence of that transmittal submitted (a reasonable effort must be made to ascertain a current or last known address)–but also the petition (with fee) must state over the signature and registration number of the Petitioner the last known address (and, if appropriate, evidence of the due diligence effort ascertaining same).

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1]

CONCLUSION

Therefore, the instant petition must be and hereby is dismissed.

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

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

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[1] See: MPEP 409.03(b).

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 07-05

Paper No: __

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

COPY MAILED
JUL 13 2005
OFFICE OF PETITIONS

In re Application of
Fitter, et al :
Application No. 10/746,339 : ON PETITION
Filed: 29 December, 2003 :
Attorney Docket No. 0641-0258P :

This is a decision on the petition under ¶(b) of 37 C.F.R. §1.47, filed on 4 April, 2005.

The petition is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and 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 "Petition under 37 C.F.R. §1.47";

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

BACKGROUND

The record indicates:

- the application was filed on 29 December, 2003, without, *inter alia*, a fully executed oath or declaration; and

- on 4 May, 2004, the Office mailed a Notice to File Missing Parts requiring that, *inter alia*, a fully signed oath/declaration (with surcharge) or a petition under 37 C.F.R. §1.47 in its stead be filed as the reply;

- the original petition filed 6 December, 2004, was dismissed on 4 February, 2005:

  –and therein Petitioner Gerald M. Murphy, Jr. (Reg. 28,977) (signed by Kristi Rupert (Reg. No. 45,702) set forth in the petition that the non-signing inventors Stephen Fitter (Mr. Fitter), Jan Kazenwadel (Mr. Kazenwadel), Robert James (Mr. James) and Danielle Horley (Ms. Horley) have been presented with the entire application (description, claims, abstract and drawings), but have refused to sign the oath/declaration, however, the declaration by one John V. Turner, who identifies himself as Director of Medimolecular Pty. Ltd., the alleged assignee, clearly states (as do the supporting transmittal letters) that what was transmitted included only the oath/declaration (and assignment)–not the entire application;

  – there was no indication of an effort to ensure the currency of the addresses for the non-signing inventors; and

  –the names and addresses of the inventors are not contained in/on the oath/declaration submitted–the assignee's designated authority only signs on behalf of the non-signing inventors, moreover, there must be some indication of by what authority from the assignee that person signs;

- the renewed petition avers that the decision was in error as to, *inter alia*, the transmittal of the entire application to the non-signing inventors, however, a close review of the documents <u>submitted by Petitioner</u> clearly evidences that:

  –there is no original transmittal letter, but, rather, an Email dated 30 August, 2004, from (John V. Turner, PhD (Mr. Turner)), identified as a/the Director of assignee MediMolecular Pty. Ltd. to non-signing inventor Mr. James requesting that the he and his fellow non-signing inventors sign and return the oath/declarations provided to them by Petitioner's office and that of the Australian Counsel;

–the 30 August, 2004, Email Mr. Turner to Mr. James also informs Mr. James that he and his fellow non-signing inventors were "welcome to view the US patent application 10/746,339 at Flinders Technologies office in the Mark Oliphant Building Science Park, reminds Mr. James of their communal obligation to execute "all documents necessary and desirable to give effect to the ownership of the intellectual property"; and threatens "other courses of action" should the non-signing inventors not comply with Mr. Turner's demands;

–on 8 September, 2004, Mr. James and his fellow non-signing inventors responded with a request, *inter alia*, for "a copy of the actual application";

–on 9 September, 2004, John Branson (Mr. Branson), identified as Chairman of assignee MediMolecular Pty. Ltd., appears to have transmitted two letters to Mr. James, one averred to enclose a CD with "complete copies of the as filed patent application [parent and] 10/746,339 * * *," however, there is no evidence that copies of these materials were supplied to the other non-signing inventors;

–on 13 September, 2004, (however, the date is unclear because of receipt stamps over the numbers) Mr. James and the fellow non-signing inventors write to indicate that the materials received by Mr. James with regard to Application No. "10/746,339 suggests that it appears to be incomplete" and requests a prompt reply; and

–there is no response from assignee MediMolecular Pty. Ltd. in evidence.

- thus, contrary to Petitioner's assertion that "there is adequate proof in the record that the non-signing inventors were presented with the entire application" the record in fact evidences otherwise.

The undersigned attorney placed a call to Petitioner in this regard the week of 5 - 8 July, 2005, and this matter was discussed expressly and in detail with Petitioner on 12, July, 2005. Petitioner was reminded that submission of a renewed petition with copies of a transmittal letter directed to <u>each</u> non-signing inventor stating that the letter was accompanied by a copy of <u>the entire application–description, claims, abstract and drawings</u>–and oath/declaration, and requesting that the oath/declaration be signed and returned <u>by a date certain</u> might help Petitioner to satisfy his burden of proof.

<u>ANALYSIS</u>

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.
(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

* * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

§1.63 Oath or declaration.

(b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:

(1)Identify the application to which it is directed;

(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

The commentary at MPEP §409.03(d) provides:

409.03(d) Proof of Unavailability or Refusal

INVENTOR CANNOT BE REACHED

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

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. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the

> nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application--and evidence of that transmittal submitted (a reasonable effort must be made to ascertain a current or last known address)--but also the petition (with fee) must state over the signature and registration number of the Petitioner the last known address (and, if appropriate, evidence of the due diligence effort ascertaining same).

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1]

CONCLUSION

Therefore, the instant petition is **dismissed**.

---

[1] See: MPEP 409.03(b).

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

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

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

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

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

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

---

[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be 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 .)

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 11-05

Paper No: __

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

COPY MAILED

NOV 25 2005

OFFICE OF PETITIONS

In re Application of		
Fitter, et al	:	
Application No. 10/746,339	:	ON PETITION
Filed: 29 December, 2003	:	
Attorney Docket No. 0641-0258P	:	

This is a decision on the petition under ¶(b) of 37 C.F.R. §1.47, filed on 13 September, 2005.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 29 December, 2003, without, *inter alia*, a fully executed oath or declaration; and
- on 4 May, 2004, the Office mailed a Notice to File Missing Parts requiring that, *inter alia*, a fully signed oath/declaration (with surcharge) or a petition under 37 C.F.R. §1.47 in its stead be filed as the reply;
- the original petition filed 6 December, 2004, was dismissed on 4 February, 2005:

–and therein Petitioner Gerald M. Murphy, Jr. (Reg. 28,977) (signed by Kristi Rupert (Reg. No. 45,702) set forth in the petition that the non-signing inventors Stephen Fitter (Mr. Fitter), Jan Kazenwadel (Mr. Kazenwadel), Robert James (Mr. James) and Danielle Horley (Ms. Horley) have been presented with the entire application (description, claims, abstract and drawings), but have refused to sign the oath/declaration, however, the declaration by one John V. Turner, who identifies himself as Director of Medimolecular Pty. Ltd., the alleged assignee, clearly states (as do the supporting transmittal letters) that what was transmitted included only the oath/declaration (and assignment)–not the entire application;

– there was no indication of an effort to ensure the currency of the addresses for the non-signing inventors; and

–the names and addresses of the inventors are not contained in/on the oath/declaration submitted–the assignee's designated authority only signs on behalf of the non-signing inventors, moreover, there must be some indication of by what authority from the assignee that person signs;

- the first renewed petition averred that the decision was in error as to, *inter alia*, the transmittal of the entire application to the non-signing inventors, however, a close review of the documents submitted by Petitioner clearly evidences that:

–there was no original transmittal letter, but, rather, an Email dated 30 August, 2004, from (John V. Turner, PhD (Mr. Turner)), identified as a/the Director of assignee MediMolecular Pty. Ltd. to non-signing inventor Mr. James requesting that the he and his fellow non-signing inventors sign and return the oath/declarations provided to them by Petitioner's office and that of the Australian Counsel;

–the 30 August, 2004, Email Mr. Turner to Mr. James also informed Mr. James that he and his fellow non-signing inventors were "welcome to view the US patent application 10/746,339 at Flinders Technologies office in the Mark Oliphant Building Science Park, reminds Mr. James of their communal obligation to execute "all documents necessary and desirable to give effect to the ownership of the intellectual property"; and threatens "other courses of action" should the non-signing inventors not comply with Mr. Turner's demands;

–on 8 September, 2004, Mr. James and his fellow non-signing inventors responded with a request, *inter alia*, for "a copy of the actual application";

–on 9 September, 2004, John Branson (Mr. Branson), identified as Chairman of assignee MediMolecular Pty. Ltd., appears to have transmitted two letters to Mr.

James, one averred to enclose a CD with "complete copies of the as filed patent application [parent and] 10/746,339 * * *," however, there was no evidence that copies of these materials were supplied to the other non-signing inventors;

–on 13 September, 2004, (however, the date is unclear because of receipt stamps over the numbers) Mr. James and the fellow non-signing inventors wrote to indicate that the materials received by Mr. James with regard to Application No. "10/746,339 suggests that it appears to be incomplete" and requests a prompt reply; and

–there was no response from assignee MediMolecular Pty. Ltd. in evidence; and the undersigned attorney placed a call to Petitioner in this regard the week of 5 - 8 July, 2005, and this matter was discussed expressly and in detail with Petitioner on 12, July, 2005; Petitioner was reminded that submission of a renewed petition with copies of a transmittal letter directed to each non-signing inventor stating that the letter was accompanied by a copy of the entire application–description, claims, abstract and drawings–and oath/declaration, and requesting that the oath/declaration be signed and returned by a date certain might help Petitioner to satisfy his burden of proof;

- thus, the petition was dismissed because, contrary to Petitioner's assertion that "there is adequate proof in the record that the non-signing inventors were presented with the entire application" the record in fact evidenced otherwise;

- the instant petition appears to have corrected the above-described deficiencies, and Mr. John V. Turner has identified himself as director of the alleged assignee and so signed the oath/declaration in that capacity.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(b).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(b)**.

As provided under 37 C.F.R. §1.47(b), the 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 also will be published in the Official Gazette.

This file is released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

COPY MAILED

JAN 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Linda Hockersmith et al :
Application No. 10/746,352 :
Filed: December 23, 2003 :
Attorney Docket No. SENS0041 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 28, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

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

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 26, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted 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
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/746,352	HOCKERSMITH ET AL.	
	Examiner	Art Unit	
	Ralph Gitomer	1657	

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

THE REPLY FILED 28 September 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See 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): none.
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: *1-6,8-18,20,22-30 and 71-82*.
   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: Reasons of record.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

R Gitomer

Ralph Gitomer
Primary Examiner
Art Unit: 1657

Continuation of 3. NOTE: New claims and new issues are presented in the amendment.

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P.O. Box 1450
Alexandria, Virginia 22313-1450
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John F. Hoffman, Esq.
BAKER & DANIELS LLP
Suite 800
111 East Wayne Street
Fort Wayne, IN 46802

Mail Date: 04/21/2010

Applicant	: Scott J. Steffensmeier	: DECISION ON REQUEST FOR
Patent Number	: 7641661	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/746,385	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/26/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1224** 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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FEB 16 2005

OFFICE OF PETITIONS

Patrick D. Kelly
11939 Manchester #403
St. Louis MO 63131

In re Application of :
Gierhart, et al. : DECISION ON PETITION
Application No. 10/746,403 :
Filed: December 23, 2003 :
Atty. Dkt. No.: ZX-OCU-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 6, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned June 9, 2004 for failure to timely file a proper response to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed April 8, 2004. The Notice set a two (2) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136 were timely requested. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 CFR 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 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 set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

Receipt is acknowledged of the declaration, surcharge, and substitute specification submitted herewith.

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

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Pet. Dec.

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Mailed: MAY 18 2004

CST

In re application of Gurin et al Serial No. 10/746,405 Filed: December 24, 2003 For: FUEL CELL FOR INTEGRATED FEEDBACK CONTROL	: : : : : : :	DECISION ON PETITION

This is a decision on the petition filed January 14, 2004 requesting that the above-identified application be granted Special Status under section 708.02(VI) of the MPEP and 37 CFR 1.102(c) – no fee required.

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

The petition is GRANTED.

Christine Tierney

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

AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

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CORNING CABLE SYSTEMS LLC
C/O CORNING INC., INTELLECTUAL PROPERTY DEPARTMENT
SP-TI-3-1
CORNING NY 14831

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FEB 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Bloodworth et al.	:	
Application Number: 10/746411	:	DECISION ON PETITION
Filing Date: 12/24/2003	:	
Attorney Docket Number: HE0212	:	

This is a decision on the petition filed on January 4, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on January 2, 2008, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on October 1, 2007, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on January 16, 2008.

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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 issue and publication fees is acknowledged.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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APR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Paul F. Chouinard	:	
Application No. 10/746,416	:	DECISION ON PETITION
Filed: December 29, 2003	:	TO WITHDRAW
Attorney Docket No. 760-173 DIV/CON	:	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 30, 2009.

The request is **NOT APPROVED**.

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

The request cannot be approved because practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

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

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

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: PAUL F. CHOUINARD
9048 PEONY LANE NORTH
MAPLE GROVE, MN 55311

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

Mail Date: 04/21/2010

Applicant	: Hong Wang	: DECISION ON REQUEST FOR
Patent Number	: 7580914	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/746,421	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **511** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

OIPE JC37
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PATENT & TRADEMARK OFFICE

2-28-05

DAC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: FLOYD G. TAPP	Art Unit: 1724
	Examiner: Robert J. Popovics
Serial No.: 10/746,425	
Filing Date: December 23, 2003	Mailing Date: February 25, 2005
Title: System for Solid-Liquid Separation	

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102(c)

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

Dear Sir:

Applicant respectfully petitions the Commissioner to accord special status for the above-identified patent application which is currently pending. In support of this petition, the Applicant states as follows:

1. Applicant filed his application for Letters Patent on December 22, 2003, claiming benefits of application number 60/436,233 filed on December 26, 2002.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being transmitted via Express Mail, addressed to: MAIL STOP PETITION, Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia, 22313-1450, on February 25, 2005. The Honorable Commissioner of Patents and Trademarks is requested to grant this paper that date as its filing date.

Gary K. Price (#45,024)

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700
MAR 16 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

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NOV 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Stephen J. BURDEN.	:	
Application No. 10/746,427	:	ON PETITION
Filed: December 24, 2003	:	
Attorney Docket No. 4451-14-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2005, and supplemented October 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 non-final Office action mailed March 16, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 17, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and drawings; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 16, 2005 is accepted as having been unintentionally delayed.

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 2815 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI, FL 33180

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JUN 0 9 2006

OFFICE OF PETITIONS

In re Application of Young :
Application No. 10/746,451 : Decision on Petition
Filing Date: December 23, 2003 :
Attorney Docket No. 7790-X05-015 :

This is a decision on the petition, filed April 13, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 18, 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. As a result, 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 the above statute and 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 14, 2006, accompanies this decision on petition.

Technology Center Art Unit 1724 will be informed of the instant decision and informed the application is not abandoned.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/746,451	12/23/2003	Wing Yip Young	YOUNG

CONFIRMATION NO. 4168

27317
FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI, FL 33180

Date Mailed: 06/08/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 09/14/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/746,451	12/23/2003	Wing Yip Young	YOUNG

CONFIRMATION NO. 4168

27317
FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI, FL 33180

Date Mailed: 06/08/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 09/14/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/746,467	12/24/2003	Christopher A. Baker	F-613-01	5632

7590 04/22/2008

Pitney Bowes Inc.
Intellectual Property & Technology Law Department
35 Waterview Drive
P.O. Box 3000
Shelton, CT 06484

EXAMINER
JOSEPH, TONYA S

ART UNIT	PAPER NUMBER
3628	

MAIL DATE	DELIVERY MODE
04/22/2008	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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Commissioner for Patents
United States Patent and Trademark Office
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TECHNOLOGY CENTER 3600

PITNEY BOWES INC.
INTELLECTUAL PROPERTY &
TECHNOLOGY LAW DEPARTMENT
35 WATERVIEW DRIVE
P.O. BOX 3000
SHELTON, CT 06484

In re Application of: Christopher Baker :
Application No. 10/746,467 :
Filed: December 24, 2003 :
Attorney Docket No.: F-613-O1 :
For: METHOD FOR RETRIEVING MAILPIECE:
TRACKING DETAILS USING MAILPIECE:
IMAGES :

PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 C.F.R. 1.144

This is in response to applicant's petition filed on October 18, 2007, to request that the July 25, 2007 restriction requirement under 37 C.F.R. 1.144 be withdrawn.

The petition is **GRANTED-IN-PART** to the extent indicated below.

As stated by Petitioner, according to M.P.E.P. § 803, there are "two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent, or distinct as claimed"; and "(B) There would be a serious burden on the examiner if restriction is not required." Petitioner states that because neither of the two criteria has been met, the restriction requirement should be withdrawn.

Petitioner first states that independent claims 1, 3, and 14 all relate to the mail tracking method of the invention and that none of the claims relate to "deliverability requirements for mailpieces" or "determining customer deliverability parameters," as asserted in the Office Action. Moreover, no mention of those terms is made in the as-filed specification. Indeed, the only use of those terms in the record has been that of the Examiner. Thus, the assertions made in the final Office Action regarding the distinctness and separate utility of the claimed subject matter find no support in the as-filed specification or in the pending claims. Petitioner then states that because the claimed inventions are not independent or distinct, the restriction requirement should be withdrawn.

A review of the file record indicates that the rationale used in the July 25, 2007 Office action to distinguish between the Group I and II inventions is not realistic in light of petitioner's arguments above since examiner's reasoning based on "deliverability

requirements for mailpieces" and "determining customer deliverability parameters" is neither claimed nor discussed in the specification. Thus, the petition to withdraw this restriction requirement is granted in part and the original restriction requirement is withdrawn. However, since there still exists other distinctions between the two groups of inventions, a separate rationale for restriction between Groups I and II follows below.

Newly submitted claims 3-18 (Group II) in the amendment filed 27 April 2007 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claims 3-18 are deemed to be directed to a independent or distinct invention because claims 3-18 have separate utility when compared to claims 1-2 (Group I) such as allowing the user to specifically select desired mailpiece attributes corresponding to a desired mailpiece, providing access to address information associated with a set of mailpieces having the selected attributes, receiving a user's request for a desired mailpiece from the set of mailpieces and providing tracking information for the desired mailpiece. The invention in Group I does not include this process of presenting a set of mailpieces meeting certain user selected attributes and allowing the user to select a desired mailpiece from the set of mailpieces. The invention of Group I simply presents image information regarding one single mailpiece to the user, and when the user selects it, mailpiece tracking details are presented to the user. As such, in the invention of Group I, the user is not provided with a set of mailpieces to choose from based on certain user selected attributes. For these reasons, the invention of Group II is considered to be patentably distinct.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 3-18 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Petitioner further argues that there is no serious burden on the examiner to examine both groups together. Petitioner states that, in the Office Action, both groups of claims, i.e., all pending claims, were identified as being classified in class 705, subclass 1. Nonetheless, it was asserted in the Office Action at page 3 that the "inventions have acquired a separate status in the art due to their recognized divergent subject matter." Applicants disagree and submit that the only recognition of divergence of the subject matter of the pending claims is that asserted by the Examiner. Further, as discussed above, the Examiner's assertions regarding the divergence of the claimed subject matter find no support in the as-filed specification or in the pending claims. Finally, Applicants respectfully submit that searching and examining related claims in an identical class and subclass does not impose a serious burden on the Examiner.

MPEP 808.02 states where the inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following: (A) separate classification thereof, (B) separate status in the art when they are classified together or (C) a different field of search.

Based on the reasoning above, in order for the examiner to search the limitations of Group II related to providing access to address information associated with a set of mailpieces having the selected attributes, receiving a user's request for a desired mailpiece from the set of mailpieces and providing tracking information for the desired mailpiece, a substantially different search query would be required than that of Group I. Thus, since it has been shown that a different field of search would be required based on the distinct claim language between groups I and II, a serious burden for the examiner to search both groups has been established and the restriction requirement is deemed proper.

A shortened statutory period for reply is set to expire one (1) month or thirty (30) days, whichever is longer, from the mailing date of this communication, should petitioner wish to respond in order to traverse the grounds that this newly entered restriction is based upon. Given the late stage of prosecution of this application, extensions of time under 37 CFR 1.136(a) will not be available for the above noted response period.

Accordingly the petition is Granted-In-Part. Further, all future office actions will be held in abeyance until the restriction requirement is resolved.

Any question regarding this decision should be directed to SPE John Hayes at (571) 272-6708.

Summary: ***Petition Granted-In-Part***

Wynn Coggins
Director
Technology Center 3600
(571) 272-5350

JWH/SNM: 4/20/2008

SM

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

HYUN JONG PARK
41 WHITE BIRCH ROAD
REDDING, CT 06896-2209

COPY MAILED
JUL 17 2008

In re Application of	:	
Jung-Kyu PARK	:	
Application No. 10/746,468	:	DECISION ON PETITION
Filed: December 24, 2003	:	
Attorney Docket No. 0114-P0004A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 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, June 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. Accordingly, the application became abandoned on September 27, 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 $770; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 3714 for appropriate action by the Examiner in the normal course of business on the reply received May 12, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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SEP 2 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Ji-Eun Jang	:	
Application No. 10/746,494	:	ON PETITION
Filed: December 23, 2003	:	
Attorney Docket No. 51876P529	:	

This is a decision on the petition, filed September 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This application issued into Patent No. 6,949,971 on September 27, 2005.

The petition is **DISMISSED as moot.**

Unfortunately, the petition reached the appropriate official for decision after the patent issued on the above-identified application.[1] The inconvenience caused petitioner in this matter is sincerely regretted.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

The Request for Continued Examination (RCE) submitted with the petition is not effective and will not be entered since the petition to withdraw from issue is dismissed.

Petitioner is reminded that petitions to withdraw from issue should either be faxed to the Office of Petitions at (571) 273-0025 or hand carried to Madison Bldg. West, 600 Dulany St. Alexandria Va 22314.

Petitioner's attention is directed to 37 CFR 1.313(d), which states: A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue."

---

[1] The instant petition was received in the Office of Petitions, on September 28, 2005, after issuance of the instant application into a patent.

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

This matter is being referred to Files Repository.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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AUG 1 1 2006
OFFICE OF PETITIONS

In re Application of :
Hongyong Zhang et al :
Application No. 10/746,502 : ON PETITION
Filed: December 29, 2003 :
Attorney Docket No. 07977-203002

This is a decision on the petition filed, August 11, 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 27, 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]

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

This matter is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Fish & Richardson P.C.
1425 K Street, N.W. – 11th Floor
Washington, DC 20005-3500

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JOHN R. ROSS
TREX ENTERPRISES
10455 PACIFIC CENTER CT.
SAN DIEGO CA 92121

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MAY 21 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
Tzu-Chiang Hsieh, et al.
Application No. 10/746,529
Filed: December 23, 2003
Attorney Docket No. 513

This is a decision on the petition under 37 CFR 1.137(b), filed October 15, 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 an Office action mailed May 7, 2007. A Notice of Abandonment was mailed on November 28, 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.

This application is being referred to Technology Center AU 2814 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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CHRISTIE, PARKER & HALE LLP
PO BOX 7068
PASADENA, CA 91109-7068

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AUG 21 2007

OFFICE OF PETITIONS

In re Application of Jae-Ik Kwon et al Application No. 10/746,541 Filed: December 23, 2003 Attorney Docket No. 51437/P849	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed August 17, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 6, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 12 2007

Commissioner for Patents
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HOVEY WILLIAMS LLP
2405 GRAND BLVD., SUITE 400
KANSAS CITY MO 64108

In re Application of	:
Daniel L. Flynn et al	:
Serial No.: 10/746,545	: PETITION DECISION
Filed: December 24, 2003	:
Attorney Docket No.: 34475	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed April 20, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition lacks the required amendment to the specification. The amendment filed April 20, 2007, deleted the required paragraph. Applicants should submit a renewed petition accompanied by the required amendment as a separate paper. No additional petition fee will be required.

The petition is **DISMISSED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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PATRICK J. FAY, ESQ.
FAY KAPLUN & MARCIN, LLP
SUITE 702
150 BROADWAY
NEW YORK NY 10038

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Application of	:	
HARTWICK, Darrell et al.	:	
Application No. 10/746,549	:	DECISION ON PETITION
Filed: December 24, 2003	:	TO WITHDRAW
Attorney Docket No. **10121/01801**	:	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 09, 2010.

The request is **NOT APPROVED**.

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

The request cannot be approved because the signature on the Request to Withdraw as attorney does not have an original signature. All correspondence filed in the Office should be an original document and must include an original signature. It appears that the top of the petition is original; however the bottom of the petition appears to have a copied signature, which is not permitted by the USPTO. Since the petition is half original and half copied it does not appear that an original could have been retained as set forth in 37 CFR 1.4 below.

§ 1.4 Nature of correspondence and signature requirements.

(d)(1)*Handwritten signature.* Each piece of correspondence, except as provided in paragraphs (d)(2), (d)(3), (e) and (f) of this section, filed in an application, patent file, or other proceeding in the Office which requires a person's signature, must:

(i)Be an original, that is, have an original handwritten signature personally signed, in permanent dark ink or its equivalent, by that person; or

(ii)Be a direct or indirect copy, such as a photocopy or facsimile transmission (§ 1.6(d)), of an original. In the event that a copy of the original is filed, the original should be retained as evidence of authenticity. If a question of authenticity arises, the Office may require submission of the original.

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 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110

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MAY 1 1 2005

OFFICE OF PETITIONS

Applicant: Grosse et al.
Appl. No.: 10/746,556
Filing Date: December 23, 2003
Title: METHODS AND AGENTS FOR DIAGNOSIS AND PREVENTION, AMELIORATION OR TREATMENT OF GOBLET CELL-RELATED DISORDERS
Attorney Docket No.: 14851-0020001/ING10631US2
Pub. No.: US 2005/0014167 A1
Pub. Date: January 20, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on March 18, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application 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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P.O. Box 1450
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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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JAN 14 2010

In re Application of	:	
Charles Williams	:	
Application No. 10/746,557	:	DECISION ON PETITION
Filed: December 23, 2003	:	
Attorney Docket No. 34250-0840	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed February 2, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on May 3, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110.00, three- month extension of time fee submitted with the petition on November 24, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary. However, petitioner has failed to submit the required $1,620.00 petition fee, therefore the $1,110.00 will be applied towards the petition fee. Further, the additional required $510.00 will be charged to petitioner's account as authorized November 24, 2009.

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

The file is now being forwarded to Technology Center 3691 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 11 2006

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:
Akio Sugihara et al	:
Serial No.: 10/746,562	: PETITION TO MAKE SPECIAL
Filed: December 23, 2003	:
Attorney Docket No.: 019941-002110	:

This is in response to applicants' petition filed December 28, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted, but it was only discovered recently.

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

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-15-08

TO SPE OF : ART UNIT 3611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/746570 Patent No.: 7029022

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

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

SPE **Art Unit** 3611

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-15-08

TO SPE OF : ART UNIT 3611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/746570 Patent No.: 7029022

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

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

APPROVED

/Paul N. Dickson/ 3611

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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THE FARRELL LAW FIRM, P.C.
333 EARLE OVINGTON BOULEVARD
SUITE 701
UNIONDALE NY 11553

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JAN 2 1 2009

In re Application of	:	
Jung et al.	:	
Application No. 10/746,572	:	DECISION ON PETITION
Filed: December 24, 2003	:	
Attorney Docket No. 678-1317	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before February 4, 2008, as required by the Notice of Allowability mailed November 2, 2007. Accordingly, the date of abandonment of this application is February 5, 2008. A Notice of Abandonment was mailed February 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Corrected Drawings; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to the Office of Data Management for processing into a patent and review of the Corrected Drawings submitted on January 6, 2009.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

PET DEC

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

Mailed: JUN - 9 2004

CST

In re application of Gordon Davies Serial No. 10/746,574 Filed: December 23, 2003 For: RELEASE AGENT FORMULAS AND METHODS	: : : : :	DECISION ON PETITION

This is a decision on the petition filed December 23, 2003 requesting that the above-identified application be granted Special Status under section 708.02(V) of the MPEP and 37 CFR 1.102(c) – no fee required.

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

The petition is GRANTED.

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

ROBERT D. FISH
RUTAN & TUCKER, LLP
P.O. BOX 1950
611 ANTON BLVD., 14TH FLOOR
COSTA MESA CA 92628-1950

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BERNHARD KRETEN, ESQ & ASSOC.
1331 GARDEN HIGHWAY
SUITE 300
SACRAMENTO, CA 95833

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MAY 09 2005

OFFICE OF PETITIONS

In re Application of :
Mike Wassum :
Application No. 10/746,585 :
Filed: December 23, 2003 : ON PETITION
Attorney Docket No. :
32207-ppa :

This is a decision on the Petition to Grant Filing Date and Correct Electronic File Wrapper, filed March 28, 2005, which is being treated as a petition under 37 CFR 1.53, requesting the above-identified application be accorded a filing date of December 23, 2003.

The petition is granted.

The application was filed on December 23, 2003. On March 8, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Provisional Application (hereinafter "Notice") stating, *inter alia*, that the application had NOT been accorded a filing date because the specification did not include at least one claim.

Petitioner responds with the instant petition wherein Petitioner avers that the specification did in fact include a claim.

A review of the file reveals that Petitioner is correct - the specification contains a claim, however, the claim does not comply with 37 CFR 1.75(h). As such, while the application is sufficient to receive a filing date, applicant must file corrected application papers.

Accordingly, the Notice is hereby withdrawn.

The application is being referred to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of December 23, 2003, and for the mailing of a Notice to File Corrected Application Papers consistent with this Decision.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

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

Karen R. Tripp
Attorney at Law
PO Box 1301
Houston, TX 77251-1301

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AUG 04 2008

OFFICE OF PETITIONS

In re Application of	:	
Jody L. Maresh, et. al.	:	
Application No. 10/746,589	:	ON PETITION
Filed: December 24, 2003	:	
Attorney Docket No. HALB:048	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on December 17, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed March 7, 2007. A Notice of Abandonment was mailed on September 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 1712 for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 25 2010
OFFICE OF PETITIONS

TUROCY & WATSON, LLP
127 PUBLIC SQUARE
KEY TOWER, 57TH FLOOR
CLEVELAND, OH 44114

In re Patent No. **6,903,323**	:	
Issue Date: June 7, 2005	:	
Application No. 10/746,622	:	DECISION ON PETITION
Filed: December 24, 2003	:	UNDER 37 CFR 1.378(c)
Attorney Docket No. **PRP101USC**	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 28, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on June 7, 2009 for failure to pay the 3½ 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 Monica A. Graves at (571) 272-7253.

The patent file is being forwarded to Files Repository.

Thurman K. Page
Petitions Examiner
Office of Petitions

United States
Patent And
Trademark Office

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

PETITION DECISION

05/11/04

Fay, Sharpe, Fagan, Minnich & McKee, LLP
Joseph D. Dreher
1100 Superior Avenue- Seventh Floor
Cleveland, OH 44114-2518

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/746624 received on 04/26/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

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

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

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MAY 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Chang, Hung-Shen	:	
Application No. 10/746,634	:	ON PETITION
Filed: December 24, 2003	:	
Attorney Docket No. 20050158.OR1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 3, 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 an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3700 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Attention of Jeramie J. Keys, Esq.
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

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APR 21 2004
OFFICE OF PETITIONS

In re Application of Dysart et al. Application No. 10/746,643 Filed: May 11, 2000 Title of Invention: METHOD AND APPARATUS FOR STORING DATA AS OBJECTS, CONSTRUCTING CUSTOMIZED DATA RETRIEVAL AND DATA PROCESSING REQUESTS, AND PERFORMING HOUSEHOLDING QUERIES	DECISION DISMISSING PETITION UNDER 37 CFR 1.47(a)

This is in response to correspondence filed with the instant application on December 29, 2003, which is properly treated as a 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)[1].

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).

[1] A review of the correspondence reveals that the serial number and docket number are for application number 09/568,502, issued as U.S. patent no. 6,708,166 on March 13, 2004. The above-identified application is a divisional application of U.S. Patent no. 6,708,166. The attorney signing the instant petition; however, is the attorney of record in the above-identified application and not that of U.S. Patent no. 6,708,166. It is assumed therefore that the instant petition is intended for filing in the above-identified application. If this assumption is incorrect, applicant must notify this Office immediately.

Background

The above-identified application was filed on December 29, 2003, and included correspondence which is herein treated as a petition under 37 CFR 1.47(a).

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), it is noted that the declaration has been altered; however, the alterations have not been dated or initialed. As provided in 37 CFR 1.52(c), "[a]ny interlineations, erasure, cancellation or alteration of the application papers filed must be made before the signing of any accompanying oath or declaration pursuant to § 1.63 referring to those application papers and should be dated and initialed or signed by the applicant on the same sheet of paper." A new oath or declaration is required.

Further as to item (2), a review of Office records reveal that a petition under 37 CFR 1.47 was granted in U.S. Patent no. 6,708,166. Applicant is advised that no new oath or declaration is required where the executed oath or declaration (of which a copy is submitted) for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47. The copy of the executed oath or declaration for such prior application must be accompanied by a copy of the decision granting a petition to accord § 1.47 status to the prior application. *Accord* 37 CFR 1.63(d)(2) and (3).

Finally, 37 CFR 1.63 notes that "[w]here the power of attorney (or authorization of agent) or correspondence address was changed during prosecution of the prior application, the change in power of attorney (or authorization of agent) or correspondence address must be identified in the continuation or divisional application. *Accord* 37 CFR 1.63(d)(4).

Applicant may provide a copy of the oath or declaration from U.S. Patent no. 6,708,166 and a copy of the petition granting status under 37 CFR 1.47 in lieu of a newly executed oath or declaration.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Attention of Jeramie J. Keys, Esq.
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

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NOV 21 2005

OFFICE OF PETITIONS

In re Application of: :
Dysart et al. :
Application No. 10/746,643 : LETTER
Filed: December 29, 2003 :
Title of Invention: :
METHOD AND APPARATUS FOR STORING :
DATA AS OBJECTS, CONSTRUCTING :
CUSTOMIZED DATA RETRIEVAL AND DATA :
PROCESSING REQUESTS, AND :
PERFORMING HOUSEHOLDING QUERIES :

This is in response to the Request for Reconsideration of Petition under 37 CFR 1.47(a) filed August 23, 2004. The delay in treating this petition is regretted.

The petition is DISMISSED AS MOOT.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 09/568,502, filed May 11, 2000, of which the instant filing is a divisional application.

Furthermore, a copy of the decision, mailed October 26, 2001, granting a petition to accord § 1.47(a) status to the prior application has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status. No petition is necessary to accord Rule 1.47(a) status in this application. No petition fee.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this divisional application.

Because this is an image file wrapper ("IFW") file, no forwarding of the file is necessary. An electronic message will be forwarded to the

Office of Initial Patent Examination informing them of the status of the application.

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

William B. Miller
Kerr-McGee Corporation
123 Robert S. Kerr Avenue
Oklahoma City OK 73102

COPY MAILED
AUG 1 6 2004
OFFICE OF PETITIONS

In re Application of	:	
Samuel Alexander	:	
Application No.10/746,644	:	DECISION REFUSING STATUS
Filed: December 29, 2003	:	UNDER 37 C.F.R. §1.47(b)
Attorney Docket Number: 2014	:	
Title: Disposal of Accumulated Waste Solids From Processing of Titanium-Bearing Ores	:	

This is in response to the petition under 37 C.F.R. §1.47(b), filed May 24, 2004.

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

The above-identified application was filed on December 29, 2003, without an executed oath or declaration, and naming Samuel Alexander as sole inventor. Accordingly, on April 8, 2004, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition, the surcharge for late filing of the declaration, and a declaration.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (1), and (5).

Proof of Refusal to Sign the Oath or Declaration

As to item (1), Rule 47 applicant has failed to show that the non-signing inventor refused to sign the declaration after having been presented with the application papers. The statement of facts provided states a power of attorney and declaration were mailed to inventor Alexander on February 20, 2004 and an assignment was mailed on February 25, 2004. However there is no indication that application papers (specification, including claims, drawings). Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. It is also noted since there is indication that inventor Alexander may now resides in Saudi Arabia, it will not be sufficient to send the application papers to an address where it is known that they will not be received by the interested party.

If it is concluded that inventor Alexander does reside in Saudi Arabia rule 47 applicant will need to obtain a mailing address and mail the application papers to the newly obtained address. A declaration or an Application data sheet with inventor's mailing address will also be required. If an address cannot be obtained rule 47 applicant will need to provide evidence that "diligent effort" has been made to locate inventor Alexander.

Proof of Proprietary Interest

As to item (5), proprietary interest is usually found by establishing a) the invention has been assigned to applicant, or b) the inventor has agreed in writing to assign the invention to the applicant or c) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. See MPEP 409.03(f). Rule 47 applicant states proprietary interest can be established by non-signing inventor's Agreement in Respect of Patent Rights and Proprietary Information in which the non-signing inventor agreed to assign the present invention to Kerr-McGee Chemical LLC. However, a review of the record shows that such a document was not received by the Office.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By 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 regarding this decision should be directed to the undersigned at (703) 305-0309 until September 24, 2004 thereafter (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

William B. Miller
Kerr-McGee Corporation
123 Robert S. Kerr Avenue
Oklahoma City OK 73102

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OCT 26 2004

OFFICE OF PETITIONS

In re Application of
Samuel Alexander
Application No.10/746,644
Filed: December 29, 2003
Attorney Docket Number: 2014
Title of Invention: DISPOSAL OF ACCUMULATED WASTE SOLIDS FROM PROCESSING OF TITANIUM-BEARING ORES

DECISION ACCORDING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition for status under 37 C.F.R. §1.47(b), filed September 17, 2004.

The petition is **GRANTED**.

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventor has refused to sign the declaration. This declaration has been reviewed and is found in compliance with 1.63 and 1.64. Applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the petition. Proprietary interest in the application has been established.

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

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

---

[1] A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

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

Samuel R. Alexander
208 Spring Garden Drive
Columbus, MS 39705

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OCT 26 2004

OFFICE OF PETITIONS

In re Application of
Samuel Alexander
Application No.10/746,644
Filed: December 29, 2003
Attorney Docket Number: 2014
Title of Invention: DISPOSAL OF ACCUMULATED WASTE SOLIDS FROM PROCESSING OF TITANIUM-BEARING ORES

LETTER

Dear Mr. Farat:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b). Should a patent be granted on the application you will be designated therein as the sole inventor.

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

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

William B. Miller
Kerr-McGee Corporation
123 Robert S. Kerr Avenue
Oklahoma City OK 73102

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

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OCT 21 2008

OFFICE OF PETITIONS

In re Application of :
Malcolm M. Smith :
Application No. 10/746,653 : ON PETITION
Filed: December 23, 2003 :
Attorney Docket No. 062891.1182 :

This is a decision on the petition filed June 25, 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 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; (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

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

MURATA MANUFACTURING COMPANY, LTD.
C/O KEATING & BENNETT, LLP
8180 GREENSBORO DRIVE
SUITE 850
MCLEAN, VA 22102

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JAN 30 2008

OFFICE OF PETITIONS

In re Application of :
Tadahiko Matsumoto, et al. :
Application No.: 10/746,660 : ON PETITION
Filed: December 26, 2003 :
Attorney Docket No.: 36856.1183 :

This is a decision on the petition, filed January 28, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 3, 2008, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2841 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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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MURATA MANUFACTURING COMPANY, LTD.
C/O KEATING & BENNETT, LLP
8180 GREENSBORO DRIVE
SUITE 850
MCLEAN, VA 22102

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JUN 14 2006

OFFICE OF PETITIONS

In re Application of :
Tomohide Aramata, et al. :
Application No. 10/746,661 : ON PETITION
Filed: December 26, 2003 :
Attorney Docket No.: 36856.1166 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 15, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2817 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Jones, Day, Reavis and Pogue
North Point
901 Lakeside Avenue
Cleveland, OH 44114

COPY MAILED

APR 19 2002

OFFICE OF PETITIONS

In re Application of :
Arora, et al. :
Application No. 09/887,661 :
Filed: August 3, 2001 :
Title: COMPOSITION WITH FILM :
FORMING ALKYLSILSESQUIOXANE :
POLYMER AND METHOD FOR APPLYING :
HYDROPHOBIC FILMS TO SURFACES :

DECISION ACCORDING STATUS
UNDER 37 C.F.R. §1.47(a)

This is a decision on the "Petition Under 37 C.F.R. 1.47(a)," filed January 23, 2002.

The petition is **GRANTED**.

The above-identified application was filed on August 3, 2001 without an executed oath or declaration, but named Pramod Arora and Brij Singh as joint inventors. Accordingly, on October 9, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, and a surcharge for late filing. This Notice set a period for reply of two months from the mailing date of the notice.

On January 23, 2002, (certificate of mailing November 14, 2001), applicant responded filing a copy of a petition under §1.47(a) that applicant maintains was originally filed on August 1, 2001 (certificate of mailing date); a declaration for patent application signed by joint inventor Singh on behalf of himself and on behalf of non-signing inventor Arora; and payment of the surcharge for late filing.

Rule 47 applicant maintains that status under 37 C.F.R. §1.47(a) is proper because joint inventor Pramod Arora refuses to join in the application for patent. 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.

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

having been presented with the application papers. On petition, patent attorney H. Duane Switzer provides the last known address of inventor Arora and states that the inventor has been presented the application papers by certified mail and has refused to sign the declaration. Attorney Switzer has made of record a copy of the certified mail letter transmitting all of the application papers to the inventor, as well as, a copy of a letter from inventor Arora acknowledging receipt of the application papers and expressing his intent not to join in the application.

The declaration filed January 23, 2002, and the petition have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

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

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

The application file is being forwarded to Technology Center 1762 for examination in due course.

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

Patricia Faison-Ball
for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Bell, Boyd & Lloyd LLP
3580 Carmel Mountain Road
Suite 200
San Diego CA 92130

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In re Application of	:	
MICULKA et al.	:	LETTER REGARDING PATENT
Application No. 10/746,678	:	TERM ADJUSTMENT
Filed: 12/23/2003	:	
Docket No. 119359-00029 / 8005B	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed May 23, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the initial Determination of Patent Term Adjustment is **granted**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **8 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 29, 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 to date is 98 days. On May 23, 2008, applicants submitted the instant comment.

The application history has been reviewed and it has been determined that the initial determination of patent term adjustment under 35 U.S.C. 154(b) of 98 days is incorrect.

A final Office action was mailed on October 12, 2006. Applicants filed their response on April 12, 2007, in excess of the three-month period from the mailing date of the final Office action. See 37 CFR 1.704(b). Thus, applicants failed to engage in reasonable efforts to conclude prosecution of this application. The period of adjustment should have been reduced by 90 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, January 13, 2007, ending on the date the reply was filed, April 12, 2007. See 37 CFR 1.704(b). Accordingly, a period of reduction of 90 days will be entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **8 days** (287 days of Office delay - 279 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks applicants for applicants' good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

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

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

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

Enclosure: Copy of updated PAIR screen

Day : Wednesday

PALM INTRANET

Date: 9/10/2008
Time: 14:43:57

PTA Calculations for Application: 10/746678			
Application Filing Date:	12/23/2003	PTO Delay (PTO):	287
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	189
Post-Issue Petitions:	0	Total PTA (days):	8
PTO Delay Adjustment:	-90		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
71	09/10/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		90	
56	02/29/2008	MAIL NOTICE OF ALLOWANCE			
55	02/29/2008	MAIL EXAMINER'S AMENDMENT			
54	02/29/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
53	02/28/2008	ISSUE REVISION COMPLETED			
52	02/28/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	02/28/2008	CASE DOCKETED TO EXAMINER IN GAU			
50	02/28/2008	DOCUMENT VERIFICATION			
49	02/08/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
48	02/19/2008	EXAMINER'S AMENDMENT COMMUNICATION			
47	02/19/2008	NOTICE OF ALLOWABILITY			
46	08/17/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	12/06/2007	DATE FORWARDED TO EXAMINER			
44	11/19/2007	RESPONSE AFTER NON-FINAL ACTION		94	41
43	11/19/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
42	08/17/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	05/17/2007	MAIL NON-FINAL REJECTION			
40	05/14/2007	NON-FINAL REJECTION			
39	04/24/2007	CORRESPONDENCE ADDRESS CHANGE			
38	04/24/2007	DATE FORWARDED TO EXAMINER			
37	04/12/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			

36	04/24/2007	DATE FORWARDED TO EXAMINER			
35	04/12/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
34	04/24/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
33	04/12/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	04/12/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
31	10/12/2006	MAIL FINAL REJECTION (PTOL - 326)	56		26
30	10/02/2006	FINAL REJECTION			
29	12/23/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	05/05/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
27	04/26/2006	DATE FORWARDED TO EXAMINER			
26	04/17/2006	RESPONSE AFTER NON-FINAL ACTION		95	20
25	04/17/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	12/23/2003	REFERENCE CAPTURE ON IDS			
23.7	12/23/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	12/23/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	12/23/2003	PRELIMINARY AMENDMENT			
21	11/23/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	10/12/2005	MAIL NON-FINAL REJECTION	231		-1
19	10/11/2005	NON-FINAL REJECTION			
18	10/11/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	04/12/2004	APPLICATION RETURN FROM OIPE			
16	04/12/2004	APPLICATION RETURN TO OIPE			
15	04/12/2004	APPLICATION RETURN FROM OIPE			
14	04/12/2004	APPLICATION IS NOW COMPLETE			
13	04/12/2004	APPLICATION RETURN TO OIPE			
12	04/12/2004	APPLICATION RETURN FROM OIPE			
11	04/12/2004	APPLICATION RETURN TO OIPE			
10	04/09/2004	APPLICATION RETURN FROM OIPE			
9	04/12/2004	APPLICATION IS NOW COMPLETE			
8	04/09/2004	APPLICATION RETURN TO OIPE			
7	04/09/2004	APPLICATION DISPATCHED FROM OIPE			

6	04/09/2004	APPLICATION IS NOW COMPLETE			
5	03/09/2004	CLEARED BY L&R (LARS)			
4	02/24/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	02/24/2004	CASE CLASSIFIED BY OIPE			
2	01/22/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/23/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Jiang, Shaojia

From: Newsome, Lamonte
Sent: Friday, May 29, 2009 5:05 PM
To: Crane, Lawrence
Cc: Jiang, Shaojia
Subject: 10746678

Paper No.: _____

DATE : 5/29/09

TO SPE OF : ART UNIT **1623**

SUBJECT : Request for Certificate of Correction for Appl. No.: 10746678 Patent No.: 7439345 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

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

XXXXXX ☐ **Approved** — **All** changes apply.

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

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

Comments: It has been approved.

/S. A. Jiang/ SPE 1623

SPE **Art Unit**

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Alexandria, VA 22313-1450
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BELL, BOYD & LLOYD, LLP
3580 CARMEL MOUNTAIN RD
SUITE 200
SAN DIEGO, CA 92130

Paper No.

MAILED

JUL 22 2010

OFFICE OF PETITIONS

In re Application of :
Miculka, et al. : DECISION ON APPLICATION
Application No.10/746,678 : FOR
Filed: December 23, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No.
3800083/8005B

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT 37 CFR 1.705(d)," filed December 22, 2008. Applicants request that the patent term adjustment of thirty-six days (36) days be adjusted to a determination of one hundred and forty six (146) days.

The request for reconsideration of patent term adjustment is **GRANTED-in-PART**. Patentees are entitled to a determination of 145 days.

On October 21, 2008, the above-identified application matured into US Patent No. 7,439,345 with a patent term adjustment of 36 days. This request for reconsideration of patent term adjustment was timely filed within two months of the decision of September 11, 2008 issued by the Office in response to Applicant's first Petition for reconsideration of patent term adjustment filed on May 23, 2008. The Office granted the requested relief on September 11, 2009. See 37 CFR 1.705(d).

In the instant petition Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are

Application No. 10/746,678
entitled to a total patent term adjustment of 146 days, which includes 110 days due to exceeding three year pendency.

In view of the Federal Circuit decision Wyeth v. Kappos, No. 2009-1120 (Fed. Cir., Jan. 7, 2010), patentees request is granted-in-part. In the instant situation, patentees do not dispute the "A" period delay of 315 days.

Patentees err in the "B" period calculation by one day. In that, the period is calculated from the day after the 36 months, i.e. from December 24, 2006 until one day before the filing of an RCE or alternately, the issue date of the patent if no RCE was filed in the application. In this case the RCE was filed on April 12, 2007, hence the "B" period extends from December 24, 2006,to April 11, 2007 for a total of 109 days. Thus, the PTA term is the total "A" delay of 315 days, plus the total "B" delay of 109 days, minus the "overlap" of zero, minus applicant delay of 279 days for a total of 145 days of PTA. As a result the request of a total PTA of 146 days is **granted-in-part for a total of 145 days.**

Since the Office is *sua sponte* issuing a certificate of correction, patentees are provided an opportunity to be heard. Accordingly, patentees are provided one month or thirty (30) days whichever is longer to respond the Office's sua sponte issuance of the certificate of correction. Nothing in this decision provides patentees any different time period to commence a civil action pursuant to 35 USC 154.

Telephone inquiries specific to this decision should be directed to Maria Nuzzolillo, Legal Advisor, at (571) 272-8150, or the undersigned at 571-272-7757.

/Kery A. Fries/

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

cc: Draft C of C
Adjusted PTA calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,439,345 B2

DATED : October 21, 2008 **Draft**

INVENTOR(S) : Miculka, 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 (36) days

Delete the phrase "by 36 days" and insert – by 145 days--

Day : Thursday
Date: 7/22/2010

PALM INTRANET

Time: 11:00:51

PTA Calculations for Application: 10/746678

Application Filing Date:	12/23/2003	PTO Delay (PTO):	315
Issue Date of Patent:	10/21/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	189
Post-Issue Petitions:	0	Total PTA (days):	145
PTO Delay Adjustment:	19		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
85	07/22/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	109		
78.5	10/01/2008	PTA 36 MONTHS			
78	10/21/2008	PATENT ISSUE DATE USED IN PTA CALCULATION	28		65
77	09/17/2008	EXPORT TO FINAL DATA CAPTURE			
76	09/15/2008	FINISHED INITIAL DATA CAPTURE			
75	09/16/2008	DISPATCH TO FDC			
74	09/11/2008	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
73	09/11/2008	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
73	09/11/2008	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
72	05/23/2008	PETITION ENTERED			
71	09/10/2008	ADJUSTMENT OF PTA CALCULATION BY PTO			
71	09/10/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		90	
70	09/03/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
69	09/02/2008	WORKFLOW - QUERY REQUEST - FINISH			
68	09/02/2008	TC RETURN TO PUBS			
67	06/04/2008	CORRESPONDENCE ADDRESS CHANGE			
66	05/23/2008	RESPONSE TO REASONS FOR ALLOWANCE			
65	05/23/2008	ISSUE FEE PAYMENT VERIFIED			
63	05/22/2008	ISSUE FEE PAYMENT RECEIVED			
62	05/22/2008	FILING RECEIPT - CORRECTED			

61	04/08/2008	PUBS CASE REMAND TO TC			
60	04/23/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
59	04/22/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
58	03/15/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
57	03/07/2008	EXPORT TO INITIAL DATA CAPTURE			
56	02/29/2008	MAIL NOTICE OF ALLOWANCE			
55	02/29/2008	MAIL EXAMINER'S AMENDMENT			
54	02/29/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
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39	04/24/2007	CORRESPONDENCE ADDRESS CHANGE			
38	04/24/2007	DATE FORWARDED TO EXAMINER			
37	04/12/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
36	04/24/2007	DATE FORWARDED TO EXAMINER			
35	04/12/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
34	04/24/2007	DISPOSAL FOR A RCE / CPA / R129			
33	04/12/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
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29	12/23/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
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10	04/09/2004	APPLICATION RETURN FROM OIPE			
9	04/12/2004	APPLICATION IS NOW COMPLETE			
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7	04/09/2004	APPLICATION DISPATCHED FROM OIPE			
6	04/09/2004	APPLICATION IS NOW COMPLETE			
5	03/09/2004	CLEARED BY L&R (LARS)			
4	02/24/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	02/24/2004	CASE CLASSIFIED BY OIPE			
2	01/22/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/23/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 102004

NICHOLAS SOURIS
331 HURT ROAD, SW
SMYRNA, GA 30082

NOV - 4 2004

In re Application of:	:	
NICHOLAS SOURIS *et al.*	:	DECISION ON PETITION
Serial No.: 10/746,680	:	TO MAKE SPECIAL
Filed: December 29, 2003	:	
For: **ROTARY MOTION**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed April 23, 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 III: Applicant's Health, Section IV: Applicant's Age Section V: Environmental/Quality.

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 statement from the applicants stating that Nicholas Souris is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

The requests under Sections III and V are moot in view of the above decision.

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 Edward Westin at (571) 272-1638.

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

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THOMAS K. HONG
UNIT 18
1666 QUEEN STREET EAST
TORONTO, ON M4L IG3
CANADA

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of :
Thomas K. Hong :
Application No. 10/746,686 :
Filed: December 29, 2003 : ON PETITION
For: INLET VALVE APPARATUS :
AND VALVE SYSTEM :

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

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "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 December 15, 2004. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on March March 16, 2005. A Notice of Abandonment was mailed June 27, 2005.

The instant petition

Applicant files the instant petition and states that the abandonment of the application was unavoidable. Applicant provides no explanation as to how or why the abandonment was

unavoidable, nor has applicant provided any documentary evidence to support his assertion that the abandonment of the application was unavoidable.

Applicant has also failed to file a reply to the non-final Office action that was mailed December 15, 2004.

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).

This petition lacks items (**1**) and (**3**) above.

As to item (**1**), Applicant has failed to provide the required reply. Applicant must file a reply to the non-final Office action that was mailed to Applicant December 15, 2004 (usually in the form of an amendment to the application).

Applicant is advised that the required reply must be filed before a petition may be granted.

As to item (**3**), Applicant is advised that he must account for the entire period of the delay in filing a GRANTABLE petition. That is, the period that Applicant must account for is from the time the application became abandoned, on March 16, 2005, until now. Applicant must explain why the delay in responding was, and remains, unavoidable.

Applicant's assertion, without more, is insufficient to justify revival of the application based upon an unavoidable delay.

Applicant is further advised that the law on revival of a petition based upon an unavoidably delayed response to an Office action is extensive. The following is provided for Applicant's edification:

In order for the petition under 37 CFR 1.137(a) to be considered grantable, what is required is 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. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he 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 critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "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." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2] The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and

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[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] 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 nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987).

Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); 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 (Comm'r Pat. 1891). 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).

Alternate venue

Applicant is strongly urged to 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 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).

Applicant is further advised that there are two Offices here available to provide assistance: the Office of Independent Inventors, at 703-306-5568; and the Patent Assistance Center, at 1-800-786-9199, for assistance in prosecuting his patent application.

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
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Everardo Daniel Faires
6239 N.W. 17 street
Margate FL 33063

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MAY 08 2008

OFFICE OF PETITIONS

In re Application of Everardo Daniel Faires Application No.: 10/746688 Filing or 371(c) Date: 12/29/2003 Title of Invention: LOWER REAR VIEW MIRROR (LRVM FOR SHORT)	: : : : : : :	DECISION ON PETITION

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed January 31, 2008. The petition is properly treated under 37 CFR 1.181. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 15, 2004. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply to the Office action on April 19, 2005; however, the reply was due not later than March 15, 2005. As such, the reply filed April 19, 2005 required a two (2) month extension of time and fee.

Despite the untimely-filed reply, this Office mailed a Notice of Non-Compliant Amendment to Applicant on February 14, 2006, informing Applicant that the amendment filed April 19, 2005 was non-compliant. Applicant filed an Amendment on March 10, 2006, in response to the Notice. The Amendment/response filed March 10, 2006 was still non-compliant.

This Office mailed a Notice of Non-Compliant Amendment to Applicant on November 27, 2006, informing Applicant that the amendment filed March 10, 2006 was non-compliant. Applicant filed an Amendment on December 15, 2006, in response to the Notice. The Amendment/response filed December 15, 2006 was still non-compliant.

This Office mailed a Notice of Non-Compliant Amendment to Applicant on January 10, 2007, informing Applicant that the amendment filed December 15, 2006 was non-compliant. Applicant filed an Amendment on January 30, 2007, in response to the Notice. The Amendment/response filed January 30, 2007, was still non-compliant.

This Office mailed a notice entitled "Failure to Acceptably Respond to Notice of Non-Compliant Amendment" to Applicant on May 3, 2007, informing Applicant that the amendment filed January 30, 2007 was still non-compliant. Applicant filed an Amendment on May 18, 2007, in response to the Notice. The Amendment/response filed May 18, 2007, was still non-compliant.

No timely or proper reply having been received, the application became abandoned on March 16, 2005. A Notice of Abandonment was mailed January 2, 2008.

The present petition

Applicant files the present petition and asserts that a reply to the December 15, 2004 non-final Office action was filed on April 15, 2005, including a one (1) month extension of time. Applicant explains that the reply was mailed from the United States Post Office in Margate Coconut Creek (Pompano Beach) on April 15, 2006, but was processed the following day, April 16, 2005, by the USPS in Ft. Lauderdale, Florida because the United States Post Office was already closed when Applicant mailed the reply. In support of this assertion, Applicant putatively submits a copy of the transaction with credit card for payment of the postage in the amount of $4.30; the original receipt, and a copy of the envelop from the Office's Patent Application Information and Retrieval (PAIR) System with a stamp of April 15, 2005 from zip code 33063 (Pompano Office), and a date of April 16, 2005, from the Ft. Lauderdale Post Office.

Office records

A review of Office records reveals that on April 19, 2005 this Office received a copy of a USPS Priority Mailing with a date stamp of April 16, 2005. This Office also received a Cover Sheet for the Amendment, which is dated April 15, 2005, and an Amendment to the specification (9 pages); an Amendment to the claims (1 page) and an Abstract (1page).

Applicable Law, rules and Manual of Patent Examining Procedure (MPEP)

Applicant is advised that an application becomes abandoned by operation of law for failure to completely and properly (including timely) reply to an Office communication. The following law, rules and Manual of Patent Examining Procedure are applicable:

The statute, 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.

This section of the statute is further clarified in Office rule, 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply **as the condition of the application may require**. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

This section explains that the reply **must** be both complete and proper as the condition of the application may require.

Analysis

Here, Applicant filed a reply; however, the reply was not a complete and proper reply. The reply was not timely, nor was the reply proper. This Office repeatedly notified Applicant that the reply was not proper; giving Applicant ample opportunity to file a proper amendment. Applicant failed to file a complete and proper reply as the condition of the case required.

Applicant asserts that a timely reply was filed. The following proves instructive:

Applicable Law, Rules and MPEP

The MPEP, 711.03(c), Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed, states:

> 37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513). When a

paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).
37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

Analysis

The above sections explain that there are three (3) methods to file correspondence with this Office in order to demonstrate that a timely reply is filed. The methods are (1) filing by "Express Mail" service of the USPS in accordance with 37 CFR 1.10; (2) demonstrating that correspondence was filed using a return receipt postcard in accordance with MPEP 503, and (3) filing correspondence using a certificate of mailing in accordance with 37 CFR 1.8.

Applicant has not demonstrated that he filed the reply on April 15, 2005 using any of the above procedures. When none of the above procedures have been used, the date that this Office receives the correspondence is the filing date that is accorded the application papers filed.

Accord 37 CFR 1.6. Here, Applicant filed his Amendment using Priority Mail. Because Applicant did not use one of the three methods stated above, the date of receipt is the filing date accorded the application papers filed in the application. Applicant's Amendment was filed on April 19, 2005 – the date that the Amendment was received.

Applicant is reminded that the Office action mailed December 15, 2005, set a three (3) month period for reply. Applicant states that he filed an extension of time; however, there is no request for an extension of time in the record, and there is no fee for an extension of time in the record. Applicant is advised that extensions of time require a fee. The current fee for an extension of time of one (1) month is $60.00, for two (2) months is $230.00, for three (3) months is $525.00. A review of Office records reveal that Applicant did not file any fee for an extension of time. Applicant does not assert that the fee for an extension of time was filed. Further to this, the reply was filed on April 19, 2005, and because the reply was filed after April 15, 2005 (but before May 15, 2005), a two (2) month extension of time and fee were due.

Conclusion

There is no dispute that the Amendment was not proper, because this Office mailed several Notices informing Applicant that the Amendment was non-compliant. Applicant only disputes whether the Amendment was timely, and it was not. Applicant has not filed any evidence, i.e. a copy of the reply that includes a certificate of mailing under 37 CFR 1.8, or evidence of filing via Express Mail Post Office to Addressee in accordance with 37 CFR 1.10, that would indicate that a reply was timely. The reply (Amendment), was neither a complete nor a proper reply to the non-final Office action, mailed December 15, 2004. The period of time for filing a complete and proper reply has passed. There is no dispute as to the status of the application – the application is abandoned.

Applicant is advised that, as provided in the Manual of Patent Examining Procedure,

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. **Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application**.

MPEP 711.03(c).

Alternate venue

Applicant is strongly urged to 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 was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

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

Finally, it is apparent that Applicant is unaware of the laws, rules of practice, and MPEP. Applicant is strongly advised to, at a minimum, familiarize himself with 37 CFR 1.6, 37 CFR 1.8, 37 CFR 1.10, and the MPEP chapter 700 and 2100, all of which are available at http://www.uspto.gov/web/patents/legis.htm.

Applicant is also advised that a list of registered practitioners is available at www.uspto.gov/main/patents. Also available at the website is a current fee schedule. Finally, Applicant is advised that the Inventors Assistance Center, at 1-800-786-9199, is available to provide assistance in prosecuting patent applications.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

Telephone inquiries concerning this Decision only 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
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Alexandria, VA 22313-1450
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Everardo Daniel Faires
6239 N.W. 17 street
Margate FL 33063

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SEP 11 2008

In re Application of	:	
Everardo Daniel Faires	:	
Application No.: 10/746688	:	DECISION ON
Filing or 371(c) Date: 12/29/2003	:	PETITION
Title of Invention:	:	
LOWER REAR VIEW MIRROR	:	
(LRVM FOR SHORT)	:	

This is a decision in response to the "Reconsideration for Petition to Withdraw Holding of Abandonment," filed June 2, 2008. The petition is properly treated under 37 CFR 1.181. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 15, 2004. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply to the Office action on April 19, 2005; however, the reply was due not later than March 15, 2005. As such, the reply filed April 19, 2005 required a two (2) month extension of time and fee.

Despite the untimely-filed reply, this Office mailed a Notice of Non-Compliant Amendment to Applicant on February 14, 2006, informing Applicant that the amendment filed April 19, 2005 was non-compliant. Applicant filed an Amendment on March 10, 2006, in response to the Notice. The Amendment/response filed March 10, 2006 was still non-compliant.

This Office mailed a Notice of Non-Compliant Amendment to Applicant on November 27, 2006, informing Applicant that the amendment filed March 10, 2006 was non-compliant. Applicant filed an Amendment on December 15, 2006, in response to the Notice. The Amendment/response filed December 15, 2006 was still non-compliant.

This Office mailed a Notice of Non-Compliant Amendment to Applicant on January 10, 2007, informing Applicant that the amendment filed December 15, 2006 was non-compliant. Applicant filed an Amendment on January 30, 2007, in response to the Notice. The Amendment/response filed January 30, 2007, was still non-compliant.

This Office mailed a notice entitled "Failure to Acceptably Respond to Notice of Non-Compliant Amendment" to Applicant on May 3, 2007, informing Applicant that the amendment filed January 30, 2007 was still non-compliant. Applicant filed an Amendment on May 18, 2007, in response to the Notice. The Amendment/response filed May 18, 2007, was still non-compliant.

No timely or proper reply having been received, the application became abandoned on March 16, 2005. A Notice of Abandonment was mailed January 2, 2008.

The January 31, 2008 petition

Applicant filed a petition to withdraw the holding of abandonment on January 31, 2008 wherein Applicant asserted that a reply to the December 15, 2004 non-final Office action was filed on April 15, 2005, including a one (1) month extension of time. Applicant explained that the reply was mailed from the United States Post Office in Margate Coconut Creek (Pompano Beach) on April 15, 2006, but was processed the following day, April 16, 2005, by the USPS in Ft. Lauderdale, Florida because the United States Post Office was already closed when Applicant mailed the reply. In support of this assertion, Applicant putatively submitted a copy of the transaction with credit card for payment of the postage in the amount of $4.30; the original receipt, and a copy of the envelop from the Office's Patent Application Information and Retrieval (PAIR) System with a stamp of April 15, 2005 from zip code 33063 (Pompano Office), and a date of April 16, 2005, from the Ft. Lauderdale Post Office.

Office records

A review of Office records revealed that on April 19, 2005 this Office received a copy of a USPS Priority Mailing with a date stamp of April 16, 2005. This Office also received a Cover Sheet for the Amendment, dated April 15, 2005, and an Amendment to the specification (9 pages); an Amendment to the claims (1 page) and an Abstract (1page).

The May 8, 2008 Decision on Petition

On May 8, 2008, a Decision dismissing the January 31, 2008 petition was mailed. The Decision informed Applicant that while Applicant had filed a reply; the reply was not a complete and proper reply. The reply was not timely, nor was the reply proper. This Office repeatedly notified Applicant that the reply was not proper; giving Applicant ample opportunity to file a

proper amendment. Applicant failed to file a complete and proper reply as the condition of the case required.

Applicant was also advised that there are three (3) methods to file correspondence with this Office in order to demonstrate that a timely reply is filed. The methods are (1) filing by "Express Mail" service of the USPS in accordance with 37 CFR 1.10; (2) demonstrating that correspondence was filed using a return receipt postcard in accordance with MPEP 503, and (3) filing correspondence using a certificate of mailing in accordance with 37 CFR 1.8.

Applicant had not demonstrated that he filed the reply on April 15, 2005 using any of the above procedures. Absent an Express mailing or a Certificate of Mailing or Transmission, the date that this Office receives the correspondence is the filing date that is accorded the application papers filed. Accord 37 CFR 1.6. Here, Applicant filed his Amendment using Priority Mail. Because Applicant did not use one of the three methods stated above, the date of receipt was the filing date accorded the application papers filed in the application. Applicant's Amendment was filed on April 19, 2005 – the date that the Amendment was received.

Applicant was reminded that the Office action mailed December 15, 2005, set a three (3) month period for reply. Applicant stated that he filed an extension of time; however, there was no request for an extension of time in the record, and there was no fee for an extension of time in the record. Applicant was advised that extensions of time require a fee. A review of Office records revealed that Applicant did not file any fee for an extension of time. Applicant did not assert that the fee for an extension of time was filed. Further to this, the reply was filed on April 19, 2005, and because the reply was filed after April 15, 2005 (but before May 15, 2005), a two (2) month extension of time and fee were due.

The petition to withdraw the holding of abandonment was dismissed.

The present reconsideration request

Applicant files the present reconsideration request and asks that the proof that he submitted to provide evidence concerning the timely response be reconsidered. Applicant also notes that the reply was not mailed in one of the three recommended ways to mail the correspondence. As to the reply to the Office action, Applicant states that he was working with the Legal Instruments Examiner ("LIE") to correct the reply; however, admits that there was some confusion in attempting to replace the old claim with a new one. Applicant requests another opportunity with the present petition.

Applicable Law, rules and Manual of Patent Examining Procedure (MPEP)

Applicant is advised that an application becomes abandoned by operation of law for failure to completely and properly (including timely) reply to an Office communication. As provided in the May 8, 2008 Decision, the following law, rules and Manual of Patent Examining Procedure are applicable:

The statute, 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.

It is well settled that 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).

Also applicable is the Manual of Patent Examining Procedure, setion 711.03, which states:

> [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, there is no dispute as to the status of the application. The application is abandoned. A petition to revive the application (and fee) is the appropriate course of action. Applicant is advised that once an application becomes properly abandoned, the application must be revived.

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with any request for reconsideration. The Director's decision will be based solely on the administrative record in existence.

Alternate venue

Applicant is strongly urged to 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 was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

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

under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Finally, it is apparent that Applicant is unaware of the laws, rules of practice, and MPEP. Applicant is strongly advised to, at a minimum, familiarize himself with 37 CFR 1.6, 37 CFR 1.8, 37 CFR 1.10, and the MPEP chapter 700 and 2100, all of which are available at http://www.uspto.gov/web/patents/legis.htm.

Applicant is also advised that a list of registered practitioners is available at www.uspto.gov/main/patents. Also available at the website is a current fee schedule. Finally, Applicant is advised that the Inventors Assistance Center, at 1-800-786-9199, is available to provide assistance in prosecuting patent applications.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Everardo Daniel Faires
6239 N.W. 17 street
Margate FL 33063

COPY MAILED
JAN 0 8 2009

In re Application of Everardo Daniel Faires Application No.: 10/746688 Filing or 371(c) Date: 12/29/2003 Title of Invention: LOWER REAR VIEW MIRROR (LRVM FOR SHORT)	: : : : : : :	DECISION ON PETITION

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 November 18, 2008.

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 December 15, 2004. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply to the Office action on April 19, 2005; however, the reply was due not later than March 15, 2005. As such, the reply filed April 19, 2005 required a two (2) month extension of time and fee.

Despite the untimely-filed reply, this Office mailed a Notice of Non-Compliant Amendment to Applicant on February 14, 2006, informing Applicant that the amendment filed April 19, 2005 was non-compliant. Applicant filed an Amendment on March 10, 2006, in response to the Notice. The Amendment/response filed March 10, 2006 was still non-compliant.

This Office mailed a Notice of Non-Compliant Amendment to Applicant on November 27, 2006, informing Applicant that the amendment filed March 10, 2006 was non-compliant. Applicant filed an Amendment on December 15, 2006, in response to the Notice. The Amendment/response filed December 15, 2006 was still non-compliant.

This Office mailed a Notice of Non-Compliant Amendment to Applicant on January 10, 2007, informing Applicant that the amendment filed December 15, 2006 was non-compliant. Applicant filed an Amendment on January 30, 2007, in response to the Notice. The Amendment/response filed January 30, 2007, was still non-compliant.

This Office mailed a notice entitled "Failure to Acceptably Respond to Notice of Non-Compliant Amendment" to Applicant on May 3, 2007, informing Applicant that the amendment filed January 30, 2007 was still non-compliant. Applicant filed an Amendment on May 18, 2007, in response to the Notice. The Amendment/response filed May 18, 2007, was still non-compliant.

No timely or proper reply having been received, the application became abandoned on March 16, 2005. A Notice of Abandonment was mailed January 2, 2008.

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 2872 for processing of the Amendment filed with the petition in due course.

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

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

OIPE JC184
MAY 1 1 2005
PATENT & TRADEMARK OFFICE

IFW

BEFORE THE UNITED STATES PATENT AND TRADEMARKS OFFICE

Applicant: JOANNOU, Constantinos J.

Title: **PORTABLE ION GENERATOR**

Our File: JOANN-16.USA

Serial No.: 10/746,718

May 5, 2005

The Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

We enclose a Declaration of the inventor/applicant confirming that he is over 65 years of age.

We ask that this application be made special in order to advance its examination.

Respectfully submitted,

Per: David J. French

P.O. Box 2486, Stn. "D"
Ottawa, Ontario, Canada K1P 5W6
Telephone: 613-567-7824 x 232 x 253
Telefax: 613-567-4689

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700

MAY 2 3 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 20 2005

Devon A. Rolf
GARMIN INTERNATIONAL, INC.
1200 East 151st Street
Olathe, AR 66062

In re Application of Thomas Walters Application No. 10/746,739 Filed: December 24, 2003	**DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT**

For: NAVIGATION APPARATUS FOR COUPLING WITH AN EXPANSION SLOT OF A PORTABLE, HANDHELD COMPUTING DEVICE

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on February 18, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response, filed August 16, 2004.

It is noted that the response filed August 16, 2004 was for Application No. 10/764,739 and not 10/746,739, however, the response is being accepted. This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

RAR/js 7/29/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

MAY 0 3 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Robert Hickling
8306 Huntington Road
Huntington Woods, MI 48070

In re Application of :
Robert Hickling :
Application No. 10/746,763 :
Filed: 12/26/2003 :
For: SOUND SOURCE LOCATION AND :
QUANTIFICATION USING :
ARRAYS OF VECTOR PROBES :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed December 26, 2003 under MPEP § 708.02 (IV), applicant's age.

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

The petition includes a statement by Mr. Robert Hickling, in support of the petition, evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board or Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305- 4701

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUN 16 2004

MAILED

JUN 16 2004

OFFICE OF THE DIRECTOR
TC 3600

CISLO & THOMAS
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA, CA 90401-1211

In re application of
Ara Dionysian
Application No. 10/746,771
Filed: December 23, 2003
For: CABINET DOOR SYSTEM

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

This is a decision on the petition submitted on December 23, 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. Dionysian indicating that he is at least 65 years of age.

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

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

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

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

SNM/slb: 05/24/04

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FROM DIRECTORS OFFICE

JAN 0 7 2005

TECHNOLOGY CENTER 3600

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Bever Hoffman & Harms, LLP
Tri-Valley Office
1432 Concannon Blvd., Bldg. G
Livermore, CA 94550

In re Application of:	:	
Michael Herpel	:	NOTICE OF WITHDRAWAL
Application No. 10/746,772	:	FROM ISSUE
Filed: December 23, 2003	:	UNDER 37 CFR § 1.313
Attorney Docket No. HER-001	:	

The above-identified application is withdrawn from issue pursuant to 37 CFR § 1.313 due to unpatentability of one or more claims. The reasons therefore will be communicated to you by the examiner.

The above-identified application is hereby withdrawn from issue.

United States Patent and Trademark Office (USPTO) records indicate that the issue fee has not yet been submitted. If the issue fee and publication 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 and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner Teri Luu at (703) 305-7421.

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

Donald T. Hajec, Director
Technology Center 3600

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

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SEP 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Challener et al.	:	
Application No. 10/746,783	:	ON PETITION
Filed: December 22, 2003	:	
Attorney Docket No. RPS9 2003 0187 US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

A Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address was submitted on July 8, 2008 and accepted on July 29, 2008. 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 new 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 2100 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

JOSEPH P. LALLY
100 CONGRESS AVENUE, SUITE 1100
AUSTIN, TX 78701

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P.O. Box 1450
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ERNEST D. BUFF & ASSOCIATES, LLC
245 SOUTH ST.
MORRISTOWN, NJ 07960

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APR 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Liebermann, et al.	:	
Application No. 10/746,784	:	ON PETITION
Filed: December 26, 2003	:	
Attorney Docket No. 0120-4	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 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 April 12, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 13, 2004. A Notice of Abandonment was mailed on January 7, 2005.

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

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

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

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SEP 22 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins CO 80527-2400

In re Application of:
Thomas L. Thrasher, et al.
Application Serial No.: 10/746,787
Filed: December 23, 2003
For: **ACTIVE REGION DETERMINATION FOR LINE GENERATION IN REGIONALIZED RASTERIZER DISPLAYS**

DECISION ON PETITION

This is a decision on the special communication and request, which is treated as a petition pursuant to 37 C.F.R. §1.181, filed September 15, 2005. No fee is required.

Petitioner states that a customer number which was submitted on a copy of a prior declaration, contained the correct customer number (i.e., 022879) to be associated with the application and that this number was inadvertently entered by the Office (i.e., 022878). Petitioner requests that the customer number be corrected such that a previously filed Terminal Disclaimer could be re-evaluated. Petitioner submits a clean copy of the prior declaration

A review of the application reveals that applicants filed copies of declarations on May 3, 2004 and May 10, 2004 in response to a Notice to File Missing Parts mailed April 12, 2004. The aforementioned declarations each contained a customer number, appointing power of attorney for the subject application. The quality of the transmission of those declarations created the confusion regarding the customer numbers. Magnified copies of the customer numbers found in the two declarations are reproduced below for convenience.

Clearly the transmission quality of the submitted documents led to the confusion

37 CFR § 1.63. Oath or Declaration, states in part:...

(d)

(1) <u>A newly executed oath or declaration is not required</u> under § 1.51(b)(2) and § 1.53(f) in a continuation or divisional application, provided that:

(i) The prior nonprovisional application contained an oath or declaration as prescribed by paragraphs (a) through (c) of this section;

(ii) The continuation or divisional application was filed by all or by fewer than all of the inventors named in the prior application;

(iii) The specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application; and

(iv) A copy of the executed oath or declaration filed in the prior application, showing the signature or an indication thereon that it was

> signed, is submitted for the continuation or divisional application. [emphasis added]

Applicants provided with the subject petition, an additional copy of the prior declaration. The additional copy confirms that the customer number should have been entered as '022879'.

Therefore, it is determined that there was an error in the initial review and entry of the customer number which associated power of attorney to the subject application.

Accordingly, the petition is **Granted**.

The application file will be forwarded to the Technology Center's technical support staff for correction of the power of attorney. From there, the application will be forwarded to the Technology Center's paralegal for re-review of the terminal disclaimer filed June 27, 2005 in light of the correct powers of attorney.

D Wayne Bost
Special Programs Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

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OFFICE OF PETITIONS

In re Application of	:	
Boge et al.	:	
Application No. 10/746,797	:	ON PETITION
Filed: December 23, 2003	:	
Attorney Docket No. LJL 384	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on December 13, 2004, to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

The instant petition includes a satisfactory statement explaining how the claimed invention contributes to the diagnosis, treatment or prevention of cancer. 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.

The application is being forwarded to the Technology Center Art Unit 1641 for action on the merits commensurate with this decision.

for David Bucci
Petitions Examiner
Office of Petitions

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of
Robert Kenny, et al.
Application No. 10/746,800
Filed: December 26, 2003
Attorney Docket No.: 65725-0040

ON PETITION

This is a decision on the petition, filed January 3, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

The application is being referred to Technology Center AU 2831 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of	:	
Robert Kenny, et al.	:	
Application No. 10/746,800	:	ON PETITION
Filed: December 26, 2003	:	
Attorney Docket No.: 65725-0040	:	

This is a decision on the petition, filed August 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The application is being referred to Technology Center AU 2831 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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P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of	:	
Robert Kenny, et al.	:	
Application No.: 10/746,800	:	ON PETITION
Filed: December 26, 2003	:	
Attorney Docket No.: 65725-0040	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 5, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2831 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

---

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

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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MAR 20 2006

OFFICE OF PETITIONS

In re Application of :
Coleman et al. :
Application No. 10/746,811 :
Filed: December 24, 2003 :
Attorney Docket No. 51641/AW/W112

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 9, 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 June 20, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 21, 2005. A Notice of Abandonment was mailed on January 30, 2006.

This petition is hereby **Granted**.

The statement of unintentional delay presented in the petition does not comply with the current rule. Pursuant to 37 CFR 1.137(b)(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" is required. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 3700 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Frederick S.M. Herz
P O Box 67
Warrington PA 18976

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NOV 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Frederick S. M. HERZ	:	
Application No. 10/746,825	:	ON PETITION
Filed: December 24, 2003	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed April 14, 2004, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 15, 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 the required fees; (2) the petition fee of $750; 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 April 14, 2004 is accepted as having been unintentionally delayed.

A new declaration was filed with the petition on August 5, 2005. The declaration originally filed with instant application identified Frederick S. M. Herz as a sole inventor. The declaration filed August 5, 2005 identifies Walter Paul Labys as a co-inventor. Petitioner is advised that the originally filed declaration fixes the inventorship of the application. For petitioner to correct the inventorship of the application, petitioner is required to follow the procedure and pay the fee set forth in 37 CFR 1.48(a).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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 of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Petitioner is advised that the file does not indicate a change of address has been submitted, even though 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 David A. Bucci at (571) 272-7099 or in his absence to the undersigned at (571) 272-3217.

The application is being referred to the Office of Initial Patent Examination.

Brian Hearn
Petitions Examiner
Office of Petitions

cc: Woodcock Washburn LLP
One Liberty Place – 46th Floor
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kathryn Newman Bornhofen
1451 340th Street
Montgomery MN 56069

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JUN 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Kathryn Anne Newman Bornhofen	:	
Application No. 10/746,831	:	DECISION ON PETITION
Filed: December 24, 2003	:	
Title: Behavior Modifying Food Dish and Method	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 20, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed August 5, 2004, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on November 5, 2004. A Notice of Abandonment was mailed on March 23, 2005.

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 amendment, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted.**

Petitioner submitted a request for a three-month extension to reply. However, pursuant to 37 CFR 1.136, a request for an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, the $510.00 extension of time fee is unnecessary because it was submitted with the petition on May 20, 2005, subsequent to the maximum period obtainable for reply. Petitioner may request a refund of the $510.00 fee by writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

The matter is being referred to Technology Center Art Unit 3644.

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

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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FREDERICK W. NIEBUHR, ESQ.
HAUGEN LAW FIRM PLLP
121 SOUTH EIGHTH STREET
MINNEAPOLIS, MN 55402

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of
Kathryn An Newman Bornhofen
Application No. 10/746,831
Filed: April 28, 20003
Attorney Docket No. 2007-3290.ORI

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to an Office action mailed July 21, 2006. A Notice of Abandonment was mailed on February 27, 2007. On September 18, 2007, the present petition was filed.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $395 and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 3644 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/21/2010

Applicant	: Samir Sheth	: DECISION ON REQUEST FOR
Patent Number	: 7656905	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/746,841	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1034** 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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P.O. Box 1450
Alexandria, VA 22313-1450
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VAN DYKE, GARDNER, LINN AND BURKHART, LLP
2851 CHARLEVOIX DRIVE, S.E.
P.O. BOX 888695
GRAND RAPIDS MI 49588-8695

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DEC 3 0 2004

OFFICE OF PETITIONS

In re Application of James Blackburn Application No.10/746,842 Filed: December 24, 2003 Attorney Docket Number: WIL06 P-101 Title: ADHESIVE ARTICLE FOR AND METHOD OF APPLYING A DECORATIVE FINISH TO A PHONE	: : : : : :	DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(b), filed October 15, 2004 (certificate of mailing October 12, 2004).

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

The above-identified application was filed on December 24, 2003, without an executed oath or declaration, and naming James Blackburn as sole inventor. Accordingly, on April 12, 2004, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition, the surcharge for late filing of the declaration, and a declaration. To make timely a four month extension of time fee was submitted with the instant petition.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (1), and (5).

Proof of Refusal to Sign the Oath or Declaration

As to item (1), Rule 47 applicant has failed to show that the non-signing inventor refused to sign the declaration after having been presented with the application papers. The statement of facts provided states inventor Blackburn was contacted on November 1, 2003 and he refused to sign any formal document. The statement further states repeated attempts were made by David Bibler to obtain the signature of inventor Blackburn. However there is no indication that application papers (specification, including claims, drawings) were ever presented to inventor Blackburn. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. If such an attempt was made rule 47 applicant should provide a statement to that effect and any documentary evidence to establish an attempt was made.

Proof of Proprietary Interest

As to item (5), proprietary interest is usually found by establishing a) the invention has been assigned to applicant, or b) the inventor has agreed in writing to assign the invention to the applicant or c) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. See MPEP 409.03(f). Rule 47 applicant has failed to provide sufficient evidence to establish proprietary interest. A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record. Petitioner has failed to provide a legal memorandum. The information provided in the petition is not sufficient for a finding of proprietary interest.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

LSI LOGIC CORPORATION
1621 BARBER LANE
MS: D-106 LEGAL
MILPITAS, CA 95035

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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of Mark Stanvick Application No. 10/746,848 Filed: December 26, 2003 Attorney Docket No. 1496.00295 Title: SINGLE LAYER CONFIGURABLE LOGIC	:	DECISION ACCORDING STATUS UNDER 37 C.F.R. § 1.47(b)

This is a decision on the "Petition under 37 C.F.R. § 1.47," filed June 16, 2004 (certificate of mailing Monday, June 14, 2004).

The petition is **GRANTED**.

The above-identified application was filed on December 26, 2003, naming Mark Stanvick as sole inventor, but without an executed oath or declaration. Accordingly, on April 13, 2004, a "Notice to File Missing Parts of Application - Filing Date Granted" was mailed, requiring, *inter alia,* applicant to submit an executed oath or declaration, and a surcharge for late filing under § 1.16(e).

In response, applicant timely filed the instant petition (and fee) and declaration executed on behalf of the assignee. Rule 47 applicant petitions for assignee LSI Logic Corporation to file the above-identified application on behalf of inventor Stanvick. Petitioner asserts that such status under 37 CFR § 1.47(b) is proper because sole inventor Stanvick cannot be reached after diligent effort to join in the application.

A grantable petition under 37 CFR § 1.47(b) requires:(1) an acceptable oath or declaration in compliance with 37 CFR §§ 1.63 and 1.64 or 1.175; (2) that the rule 47 applicant state his or her relationship to the inventor as required by 37 CFR § 1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing

inventor; (6) that rule 47 applicant make out a *prima facie* case (I) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) that rule 47 applicant prove that the filing of the application is necessary (I) to preserve the rights of the parties or (ii) to prevent irreparable damage. See MPEP §409.03(g). See 35 U.S.C. §118; 37 CFR 1.47; §§ 409.03 and 605 of the *Manual of Patent Examining Procedure* (8th ed. 2001)(Rev. 1, Aug. 2001)(MPEP).

By declaration of patent attorney Sandeep Jaggi and by supporting documentary evidence, petitioner has shown that inventor Stanvick is unavailable to join in the application. The declaration filed June 16, 2004, has been reviewed and found in compliance with § 1.47. Moreover, the petition submitted includes the petition fee and the last known address of inventor Stanvick. Petitioner has shown proprietary interest via an employment agreement and statement that the instant invention was made in the course of employment. Petitioner declares that acceptance of the declaration and according of a filing date is necessary to preserve the rights of, and to prevent irreparable damage to, the assignee/petitioner.

In view thereof, this application is hereby accorded Rule 1.47(b) status.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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AUG 3 1 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Aaron McCabe et al	:
Application No. 10/746,855	:
Filed: December 24, 2003	:
Attorney Docket No. 279.690US1	:

This is a decision on the petition filed May 4, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed December 26, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 27, 2007.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN LEWIS & BOCKIUS LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO CA 94105

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JAN 16 2009

In re Application of
Blackburn, et al.
Application No. 10/746,904
Filed: November 15, 2004
Attorney Docket No. 067456-5026-US02

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 21, 2008, to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e) for the benefit of provisional application No. 60/144,698, and which is also being treated as a petition 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 nonprovisional application No. 08/743,798.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after 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 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(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 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not satisfy requirement (1) above.

The amendment is not acceptable as currently drafted. It is not clear whether priority is being directly claimed from application No. 08/743,798 or No. 09/238,351. Moreover, application No. 08/743,798 issued before the instant application was filed. In addition, application No. 09/238,351 does not make a priority claim to No. 08/743,798.

In view of the above, the amendment is not acceptable. Accordingly, a substitute amendment along with a renewed petition under 37 CFR §§ 1.78(a)(3) must be submitted.

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

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Anthony Knight
Supervisor
Office of Petitions

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MORGAN LEWIS & BOCKIUS LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO CA 94105

MAILED

MAY 28 2010

OFFICE OF PETITIONS

In re Application of
Blackburn, et al.
Application No. 10/746,904
Filed: November 15, 2004
Attorney Docket No. 067456-5026-US02

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 17, 2009, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 365(c) for the benefit of nonprovisional application No. 08/873,978, and which is also being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e) for the benefit of provisional application No. 60/144,698.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after 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 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(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 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Applicants filed a petition under 37 CFR 1.78(a)(3) and (a)(6) on February 21, 2008. However, the petition was dismissed in a decision mailed on January 16, 2009. The petition was dismissed because the amendment was not acceptable as drafted. It was not clear whether priority was being directly claimed from application No. 08/743,798 or No. 09/238,351. Moreover, application No. 08/743,798 issued before the instant application was filed. In addition, application No. 09/238,351 does not make a priority claim to No. 08/743,798.

With the instant renewed petition, petitioner has submitted an Amendment overcoming the objections set forth in the January 16, 2009 decision.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) and (a)(6) 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. §§ 119(e), 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) 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.

The application is being forwarded to Group Art Unit 1634 for consideration of the RCE filed February 17, 2009.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

for

Chris Bottorff
Supervisor
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 NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/746,904	11/15/2004	1634	1010	067456-5026-US02	25	2

CONFIRMATION NO. 9669

CORRECTED FILING RECEIPT

67374
MORGAN, LEWIS & BOCKIUS, LLP (SF)
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

OC000000041702748

Date Mailed: 05/19/2010

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

Applicant(s)

Gary Blackburn, Glendora, CA;
Bruce D. Irvine, Glendora, CA;
Jon Faiz Kayyem, Pasadena, CA;
Edward Lewis Sheldon III, Arcadia, CA;
Robert H. Terbrueggen, Manhattan Beach, CA;

Power of Attorney: The patent practitioners associated with Customer Number 67374

Domestic Priority data as claimed by applicant

This application is a CON of 09/621,275 07/20/2000 PAT 6,686,150
and is a CIP of 08/873,978 06/12/1997 PAT 7,014,992
which is a CIP of 08/743,798 11/05/1996 PAT 6,096,273
and said 09/621,275 07/20/2000
claims benefit of 60/144,698 07/20/1999
This application 10/746,904
is a CIP of 09/238,351 01/27/1999 PAT 7,090,804
which is a CIP of 09/014,304 01/27/1998 PAT 6,063,573

Foreign Applications

If Required, Foreign Filing License Granted: 04/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/746,904**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Amplification of nucleic acids with electronic detection

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/746,907	12/23/2003	2822	460	021801-000800US	8	11	1

CONFIRMATION NO. 9679

UPDATED FILING RECEIPT

OC000000014267537

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 11/02/2004

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

Applicant(s)

Kyu Hyun Choi, Cupertino, CA;

Assignment For Published Patent Application

02IC, Inc., Santa Clara, CA

Power of Attorney: The patent practitioners associated with Customer Number **20350**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/746,907

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

** SMALL ENTITY **

Title

Method of manufacturing self-aligned non-volatile memory device

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

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NOV 2 7 2007

OFFICE OF PETITIONS

In re Application of
Kuljit S. Bains et al
Application No. 10/746,948
Filed: December 23, 2003
Attorney Docket No. 5038-300

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 18, 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 **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2185 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed Application No. 10/100,312 filed March 13, 2002.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/746,948	12/23/2003	2185	1094	5038-300	26	4

CONFIRMATION NO. 2684

CORRECTED FILING RECEIPT

32231
MARGER JOHNSON & MCCOLLOM, P.C. - Intel
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

OC000000026918152

Date Mailed: 11/27/2007

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

Applicant(s)

Kuljit S. Bains, Olympia, WA;
Robert M. Ellis, Hillsboro, OR;
Chris B. Freeman, Portland, OR;
John B. Halbert, Beaverton, OR;
Michael W. Williams, Citrus Heights, CA;

Power of Attorney: The patent practitioners associated with Customer Number 32231

Domestic Priority data as claimed by applicant

This application is a CIP of 10/100,312 03/13/2002 PAT 7,024,518

Foreign Applications

If Required, Foreign Filing License Granted: 04/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/746,948**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Integral memory buffer and serial presence detect capability for fully-buffered memory modules

Preliminary Class

711

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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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

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

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NOT GRANTED

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

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

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FEB 17 2005

OFFICE OF PETITIONS

In re Application of
Thomas Gareth
Application No. 10/746,982
Filed: December 23, 2003
Attorney Docket No. 073275.0161
Title of Invention: Total Wrist Prosthesis

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed December 22, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts which was mailed on April 13, 2004. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on June 13, 2004. 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**.

Petitioner submitted a five (5) month request for extension of time. However, pursuant to 37 CFR §1.136, an extension of time 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) Petitioner's period for extension of time expired on November 13, 2004. Petitioner is ineligible for any extensions of time. Accordingly, deposit account number 50-0687 will be credited with $1080.00 for fees paid to acquire an extension of time.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of

correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Thomas Gareth
5 Rock Hill Road., Christchurch
Dorset BH23 4DZ, Great Briton

Jeffrey S. Melcher
Manelli Denison and Seltzer
2000 M Street NW Suite 700
Washington, DC 20036-3307

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Ping Ho
#7H
300 Albany Street
New York NY 10280

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OFFICE OF PETITIONS

In re Application of Tang et al. Application No. 10/747,005 Filed: December 29, 2003 For: APPARATUS AND METHODS OF USING BUILT-IN MICRO-SPECTROSCOPY MICRO-BIOSENSORS AND SPECIMEN COLLECTION SYSTEM FOR A WIRELESS CAPSULE IN A BIOLOGICAL BODY IN VIVO	DECISION DISMISSING PETITION

This is a decision in reference to the paper filed on June 1, 2004, which is being treated as a petition requesting that the above-identified application be accorded a filing date of December 29, 2003, with page 8 of the specification as a part of the original disclosure.

On December 29, 2003, applicants filed the above-identified application. On April 13, 2004, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers, stating that the application had been accorded a filing of December 29, 2003, but that page 8 of the specification (description and claims) appeared to have been omitted from the application. Additionally, the Notice required the submission of replacement drawings in compliance with 37 CFR 1.84 and 1.121 and a replacement abstract commencing on a separate sheet in compliance with 37 CFR 1.72(b) and 1.121.

In response, on June 1, 2004, applicants submitted the present petition, 18 pages of specification, 10 pages of claims, 1 page of abstract, 8 sheets of drawings, and 3 pages of declaration.

In the present petition, applicants do not address the omission of page 8 of the specification. However, applicants submitted page 8 of the specification with the petition on June 1, 2004.

The mailing of the Notice of April 13, 2004, permitted applicants to either: (1) promptly establish prior receipt in the USPTO of the item(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted item(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing item(s) was in fact deposited in the USPTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted item(s)in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted item(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice.

In this case, applicants neither assert that missing page 8 of specification was deposited on December 29, 2003, nor request the later filing date of June 1, 2004 (the date missing page 8 of the specification was supplied). Instead, applicants paid a $130.00 petition fee and submitted page 8 of the specification without any instruction.

Because page 8 of the specification was not present on December 29, 2003, and applicants have not requested a filing date of June 1, 2004 (the date page 8 was filed), page 8 of the specification will not be entered.

Any request to accord the application a filing date of June 1, 2004, with page 8 of the specification as part of the original disclosure is by way of <u>renewed</u> petition under 37 CFR 1.182. Any such petition must be filed within TWO (2) MONTHS of the date of this decision to be considered timely. The Office finance records indicate that the Office <u>incorrectly</u> coded applicants' petition fee of $130.00 as a surcharge for the late filing of a declaration, as well as refunded $65.00 to applicants. Upon filing any renewed petition, applicants <u>must pay $65.00, the remaining balance of the requisite petition fee of $130.00.</u>

Further correspondence with respect to this matter should be addressed as follows and **to the attention of 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: 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 application will be processed using only the application papers present on filing. The copy of page 8 of the specification filed on June 1, 2004, will not be entered at this time.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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300 Albany Street
New York NY 10280

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FEB 1 6 2005

OFFICE OF PETITIONS

In re Application of Tang et al. Application No. 10/747,005 Filed: December 29, 2003 For: APPARATUS AND METHODS OF USING BUILT-IN MICRO-SPECTROSCOPY MICRO-BIOSENSORS AND SPECIMEN COLLECTION SYSTEM FOR A WIRELESS CAPSULE IN A BIOLOGICAL BODY IN VIVO	DECISION DISMISSING PETITION

This is a decision on the renewed petition filed on December 9, 2004, which is being treated as a petition requesting that the above-identified application be accorded a filing date of December 29, 2003, with page 8 of the specification as a part of the original disclosure.

On December 29, 2003, applicant filed the above-identified application. On April 13, 2004, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers, stating that the application had been accorded a filing of December 29, 2003, but that page 8 of the specification (description and claims) appeared to have been omitted from the application. Additionally, the Notice required the submission of replacement drawings in compliance with 37 CFR 1.84 and 1.121 and a replacement abstract commencing on a separate sheet in compliance with 37 CFR 1.72(b) and 1.121.

In response, on June 1, 2004, applicant submitted a petition, 18 pages of specification, 10 pages of claims, 1 page of abstract, 8 sheets of drawings, and 3 pages of declaration. In the original petition, applicant did not address the omission of page 8 of the specification. Applicant submitted page 8 of the specification

with the petition on June 1, 2004. However, applicant did not submit a copy of the date-stamped postcard receipt.

On December 9, 2004, applicant filed a renewed petition. Applicant included "an amended application" with the present petition. Applicant asserts that omitted page 8 of the specification is included in the amendment. Further, applicant states that ". . . this amendment does not carry new information and should have little impacts on our original patent application." Applicant requests that the application retain the original filing date of December 29, 2003.

Applicant submitted a copy of his date-stamped postcard receipt with the present petition. The postcard indicates that 15 pages of specification were deposited on December 29, 2003, which is inconsistent with the fact that the Office received 17 pages of specification on December 29, 2003. Accordingly, the postcard receipt does not serve as prima facie evidence of the number of pages of specification submitted on filing.

Because page 8 of the specification was not present on December 29, 2003, is not part of the original disclosure on filing. Rather, applicant will be accorded a filing date of December 29, 2003, with the 17 pages of specification received at the USPTO on that date.

If applicant desires entry of page 8 of the specification, applicant should submit a separate correspondence labeled **"Amendment"** to the primary examiner requesting entry of page 8 prior to the first action on the merits. It is unclear from the record and the petition if applicant is requesting entry of page 8 of the specification and arguing that new matter exists.

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

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GEORGE A. LOUD, ESQUIRE
BACON & THOMAS
FOURTH FLOOR
625 SLATERS LANE
ALEXANDRIA VA 22314-1176

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FEB 1 1 2009

OFFICE OF PETITIONS

In re Application of
Osamu Aoki et al
Application No. 10/747,042
Filed:December 30, 2003
For: FRAUD SCORE CALCULATING PROGRAM, METHOD OF CALCULATING FRAUD SCORE, AND FRAUD SCORE CALCULATING SYSTEM FOR CREDIT CARDS

DECISION ON PETITION

This is a decision on the petition filed January 5, 2009 which is being treated as a petition under 37 CFR 1.55(a)(2),for entry of priority papers submitted after the date the issue fee was paid.

The petition is **GRANTED**.

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

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

Petitioner is advised that the rule affecting the submission of a claim for priority or a certified priority document under 37 CFR 1.55(a) was changed effective November 7, 2000. In effect, the Office will permit applicants to file a priority claim or certified priority document with the processing fee set forth in 37 CFR 1.17(i) between the date the issue fee is paid and the date a patent is issued. The Office will, however, merely place such submission in the application file but will not attempt to determine whether the applicant has met the conditions of 35 U.S.C. § 119(a)-(d) to make the priority claim

nor include the priority information in the text of the patent. In such a situation, the patent will not contain the priority claim information. The patentee may request a certificate of correction and a determination of entitlement for such priority will be made after the patent is granted. *See* Federal Register/Vol. 65, No. 175, September 8, 2000, page 54622.

Since this matter is presently before the deciding official in the Office of Petitions, action on the petition under 37 CFR 1.55(a)(2) has been undertaken. However, if the printing of the patent has progressed to the point where the priority data cannot be included on the printed patent, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 323 and pay the required fee of $100.

Any questions concerning this decision should be directed to the undersigned at (571) 272-3218. Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificate of Corrections Branch at (571) 272-4200.

The patent file is being directed to the Certificate of Correction Branch.

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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MILLEN, WHITE, ZELANO & BRANIGAN, PC
2200 CLARENDON BOULEVARD
SUITE 1400
ARLINGTON, VA 22201

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NOV 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Henning M. Beier et al	:	
Application No. 10/747,060	:	DECISION ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. SCH-1754 C1	:	

This is a decision on the petition under 37 CFR 1.182, filed May 5, 2004, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

Petitioner is encouraged to submit an application data sheet showing the new order of the inventors' names to ensure appropriate printing of the inventors' names in any patent which may issue from this application. *Note* MPEP 605.04(f).

It is noted that an Office action (restriction requirement) was mailed on September 28, 2006, setting a one month shortened statutory period for reply. Accordingly, this application is being referred to the Technology Center to await a reply to the September 28, 2006 Office action.

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

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/747,060	12/30/2003	1636	1516	SCH-1754 C1	1	28	10

CONFIRMATION NO. 6026

CORRECTED FILING RECEIPT

OC000000021242959

23599
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Date Mailed: 11/15/2006

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)

Henning M. Beier, Aachen, GERMANY;
Christa Hegele-Hartung, Muelheim a.d Ruhr, GERMANY;
Holger Hess-Stumpp, Berlin, GERMANY;
Claudia Krusche, Aachen, GERMANY;

Power of Attorney:

John White--17746
I Millen--19544
Alan Branigan--20565
John Moses--24983
Anthony Zelano--27969
Richard Traverso--30595
Alan Smith--32005
Brion Heaney--32542
John Sopp--33103
John Thomas--33460

Domestic Priority data as claimed by applicant

This application is a CON of 09/801,925 03/09/2001 ABN
which is a CIP of 09/756,286 01/09/2001 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 04/27/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/747,060

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Use of antigestagens for inhibiting accelerated endometrial maturation during infertility treatment

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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JAN 3 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Guy et al.	:	
Application No. 10/747,067	:	DECISION ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 42339-198338	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed June 17, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on September 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 a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110.00, three- month extension of time fee submitted with the petition on January 6, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

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

The file is now being forwarded to Technology Center 2618 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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LINIAK BERENATO & WHITE
STE. 240
6550 ROCK SPRING DRIVE
BETHESDA, MD 20817

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FEB 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Franz B. Boncodin	:	
Application No. 10/747,104	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO WITHDRAW
Attorney Docket No. 8327.001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

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

David Bucci
Petitions Examiner
Office of Petitions

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

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MAY 28 2008

OFFICE OF PETITIONS

In re Patent No. 7224012	:	
Issue Date: 05/29/2007	:	
Application Number: 10/747111	:	ON PETITION
Filing Date: 12/30/2003	:	
Attorney Docket Number: 026281-0307492	:	

This is a decision on the petition under 37 CFR 1.182, filed on April 28, 2008, 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 May 29, 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.

Petitioner's counsel asserts that the original Letters Patent has been lost and have not been located after a diligent search.

The petition fee of $400.00 has been received.

The petition is granted.

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

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

Douglas I. Wood
Petitions Attorney
Office of Petitions

cc: Niomi Farmer, South Tower 8C23 (FAX 571-270-9937)

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Pei Kan	: DECISION ON REQUEST FOR
Patent Number	: 7588778	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/747,125	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1007** 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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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Ralf Miller	: DECISION ON REQUEST FOR
Patent Number	: 7574365	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/747,142	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1529** 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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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Wolfgang Hahn	: DECISION ON REQUEST FOR
Patent Number	: 7599865	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/747,143	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1296** 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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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 05/18/2010

Applicant : Wolfgang Hahn
Patent Number : 7599865
Issue Date : 10/06/2009
Application No: 10/747,143
Filed : 12/30/2003

: 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 **1394** 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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Paper No. None

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

COPY MAILED
MAY 24 2006
OFFICE OF PETITIONS

In re Application of :
Tetsuya Nakamura :
Application No. 10/747,161 : DECISION ON PETITION
Filed: December 30, 2003 : UNDER 37 C.F.R. §1.181
Attorney Docket Number: 160-405 :
Title: PHOTO-CURING HOLLOW :
STRUCTURE AND METHOD OF CURING :
THE SAME

This is a decision on the petition filed March 29, 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 reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed August 2, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on November 3, 2005. A notice of abandonment was mailed on March 24, 2006.

With the present petition, Petitioner has alleged that the mailing was not received. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement[1].

1 See MPEP 711.03(c).

Petitioner has met the requirements of Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that he has searched both the file jacket and the docket record, and he has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be advised of this decision. The Technology Center's technical support staff will re-mail the final Office action. The three-month extendable time period for responding to the Notice will be set to run from the mailing date of the re-mailed notice.

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

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

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Paper No. None

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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OFFICE OF PETITIONS

In re Application of :
Akiharu Miyanaga et al. :
Application No. 10/747,165 :
Filed: December 30, 2003 :
Attorney Docket No. 740756-2699 :
Title: SEMICONDUCTOR DEVICE AND :
METHOD FOR MANUFACTURING THE :
SAME :

DECISION ON PETITION

This is a decision on the petition filed June 28, 2004.

On December 30, 2003, the above-identified application was deposited. On April 28, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application- Filing Date Granted (notice)", advising applicant that the application appeared to have been deposited without page 2 of the specification.

On June 28, 2004, Petitioner submitted the instant petition, along with page 2 of the specification.

Petitioner has further set forth that although the missing page was inadvertently omitted upon filing, the page was constructively present via an incorporation by reference.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. It is noted that the application transmittal letter identifies this application as a continuation of prior application No. 08/975,918, and specifically incorporated by reference the disclosure of the prior application.

Section 201.06(c) of the MPEP sets forth, in part:

> an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), <u>without the need for a petition</u> provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

(Emphasis added).

If petitioner desires for the examiner to enter page 2 of the specification of the parent application, then Petitioner may submit this page via an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

For these reasons, the petition is <u>dismissed</u>.

<u>Page 2 of the specification, submitted with the instant petition, will not be entered</u>. Should petitioner wish for the entry of this page, an amendment must be filed.

The original application papers will include only those application papers present on the date of deposit.

The petition fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 30, 2003, using only the application papers filed on that date.

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

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1 See MPEP 608.02(a).

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOEL D. SKINNER, JR.
SKINNER AND ASSOCIATES
212 COMMERCIAL ST.
HUDSON, WI 54016

COPY MAILED

JUN 20 2008

In re Application of	:	
Frank G. RHOADES	:	
Application No. 10/747,167	:	DECISION ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. **13680.00**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 11, 2008, to revive the above-identified application and a request to waive the $770 Petition fee under 37 CFR 1.17(m) that is being treated as a request under 37 CFR 1.183.

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

This application became abandoned for failure to timely pay the issue and publication fees on or before January 03, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 03, 2007. Accordingly, the date of abandonment of this application is January 04, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770; and (3) an adequate statement of unintentional delay. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

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

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 regard to the request under 37 CFR 1.183, to waive the $700 fee paid for the revival of the instant application under 37 CFR 1.137(b), the request is not considered further on its merits as it is not accompanied by the $400 fee required under 37 CFR 1.17(f).

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

DAC/IFW

OIPE IAP17
MAR 11 2008
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: RHOADES, Frank

Application No.: 10/747,167

Filing Date: 12/30/03

Title: Waterway Treatment System

Group Art Unit/Examiner: 1743

Attorney Docket No.: RHO100USA

PETITION FOR REVIVAL OF ABANDONED
APPLICATION UNDER 37 C.F.R. 1.137(b)---UNINTENTIONAL

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

03/12/2008 CNEGA1 00000014 10747167
01 FC:2453 770.00 OP

Dear Sir:

Applicant of the entire interest in the subject matter of the above-identified application, hereby petitions the Commissioner under 37 CFR 1.137(b) to revive as pending the above application based on an unintentional delay in prosecuting the application.

1. The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

Date of Deposit: 3-7-08. I hereby certify that this paper/fee is being deposited with the United States Postal Service as First Class Mail-Postage Prepaid, under 37 CFR 1.8, on the date indicated above, and is addressed to the Assistant Commissioner For Patents, Washington, D.C. 20231.

Jo Rudrud
Name

J Rudrud
Signature

2. The last action, for which a reply was due but not filed, is a Notice of Allowance and Fees Due, mailed October 3, 2007 and attached hereto as Exhibit A. The three-month response deadline was January 3, 2008. Applicant did not timely respond by that date because he did not receive the Notice of Allowance until January 30, 2008. Applicant hired a new attorney in December, 2006, Joel D. Skinner, Jr., to prepare and file Replies to the fourth and fifth Office Actions. Those Replies were filed April 9 and July 17, 2007. The Replies did not include a new Power of Attorney form but did include a Request to Change Correspondence Address. Please see relevant portions of the Replies attached hereto as Exhibit B. Subsequently, the USPTO mailed the Notice of Allowance to the initial correspondence address, Litman Law Office. That office did not forward or otherwise notify Applicant or the undersigned attorney of the outstanding Notice of Allowance. Litman Law Office FAXed the Notice of Abandonment to the undersigned attorney on January 30, 2008.

3. Applicant respectfully submits and requests that, since he did not receive the Notice of Allowance because, at least in part, the USPTO did not honor either Request to Change the Correspondence Address, the Petition Fee under 37 CFR 1.17(m) in the amount of $770.00 be waived.

4. Applicant respectfully requests that his Petition be granted and that the application be revived as pending.

5. Enclosed are the following:

a. PTOL-85, Issue Fee Part B Transmittal;

b. Credit Card Authorization for the requisite Issue Fee in the amount of $1,050.00 including the Publication and advance copy fee;

c. PTO/SB/47, "Fee Address" Indication Form;

d. Return receipt postcard;

e. Power of Attorney and Correspondence Address Indication Form; and

f. In the event the USPTO does not waive the Petition Fee, an additional Credit Card Authorization for the Petition fee due under 37 CFR 1.17(m).

6. It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time under 37 CFR 1.136(a), provided a Petition is not submitted separately.

7. Please charge any fee due not paid by a check or credit card authorization provided herewith, and/or charge any underpayment in any fee, and/or credit any overpayment in fee, to Deposit Account No. 19-2381.

Respectfully submitted,

Date: 3-7-08

Joel D. Skinner, Jr.
Attorney for Applicant(s)/Assignee of the Application
Reg. No. 33,786

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10747167 Total Records Found: 10

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
03/12/2008	00000007	1	2501	$720.00	03/11/2008	CC
03/12/2008	00000008	1	1504	$300.00	03/11/2008	CC
03/12/2008	00000009	1	8001	$30.00	03/11/2008	CC
03/12/2008	00000016	1	2453	$770.00	03/11/2008	CC
04/13/2007	00000014	1	2801	$395.00	04/12/2007	CC
04/13/2007	00000015	1	2251	$60.00	04/12/2007	CC
09/22/2006	00000329	1	2251	$60.00	09/21/2006	CK
04/03/2006	00000056	1	2801	$395.00	03/31/2006	CK
04/03/2006	00000057	1	2252	$225.00	03/31/2006	CK
01/06/2004	00000121	1	2001	$385.00	12/30/2003	CK

OIPE IAP17
MAR 11 2008
PATENT & TRADEMARK OFFICE

PTO/SB/81 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

POWER OF ATTORNEY and CORRESPONDENCE ADDRESS INDICATION FORM

Application Number	10/747,167
Filing Date	12/30/03
First Named Inventor	Rhoades
Title	Water Treatment System
Art Unit	1743
Examiner Name	
Attorney Docket Number	RHO100USA

I hereby revoke all previous powers of attorney given in the above-identified application.

I hereby appoint:

[x] Practitioners associated with the Customer Number: 24339

OR

[ ] Practitioner(s) named below:

Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

[xx] The address associated with the above-mentioned Customer Number:

OR

[ ] The address associated with Customer Number:

OR

[ ] Firm or Individual Name			
Address			
City		State	Zip
Country			
Telephone		Email	

I am the:

[xx] Applicant/Inventor.

[ ] Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Signature	Frank G. Rhoades	Date	3/5/08
Name	Frank G. Rhoades	Telephone	715-781-0454
Title and Company	President Advance Filtration LLC.		

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

[X] *Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. 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 3 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

OCT 1 2 2006

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte Spiegel

Application No. 10/747,179
Appeal No. 2006-2155

DECISION ON PETITION

This is a decision on the Petition Under 37 C.F.R. 1.183, filed July 10, 2006, requesting that "the Patent and Trademark Office suspend the requirement of 37 C.F.R. § 41.47(b) that a Request for Oral Hearing be filed as a separate paper." The Petition will be treated as a petition to the Chief Administrative Patent Judge under 37 C.F.R. § 41.3.

FINDINGS OF FACT

1. On April 18, 2006, Appellant filed a Reply Brief that incorporated a request for an oral hearing and was accompanied by the fee for requesting an oral hearing.

2. Appellant did not timely file a separate request for an oral hearing as required by 37 C.F.R. § 41.47(b).

3. In the Petition, Appellant represents that the failure to timely file a separate request for an oral hearing was inadvertent but has not set forth any reason why a hearing is deemed necessary or desirable for a proper presentation of this appeal. *See* 37 C.F.R. § 41.47(a).

DECISION

Accordingly, the Petition is **DENIED** without prejudice to the filing of a renewed petition explaining why an oral hearing is deemed necessary or desirable for a proper presentation of this appeal. Any such renewed petition must be filed within 14 days of the mailing date of this Decision. This time for filing the renewed petition is not extendable under 37 C.F.R. §1.136(a).

Michael R. Fleming
Chief Administrative Patent Judge
Board of Patent Appeals and Interferences

H. Jay Spiegel
H. Jay Spiegel & Associates
P.O. Box 11
Mount Vernon, Virginia 22121

Tel: (703) 619-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte Spiegel

Application No. 10/747,179
Appeal No. 2006-2155

MAILED

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

DECISION ON RENEWED PETITION

This is a decision on the Renewed Petition Under 37 C.F.R. 1.183, filed October 24, 2006, ("Renewed Petition") again requesting that the requirement of 37 C.F.R. § 41.47(b) that a request for oral hearing be filed as a separate paper be suspended for this appeal.

FINDINGS OF FACT

1. On April 18, 2006, Appellant filed a Reply Brief that incorporated a request for an oral hearing and was accompanied by the fee for requesting an oral hearing.

2. Appellant did not timely file a separate request for an oral hearing as required by 37 C.F.R. § 41.47(b).

3. In a Petition filed July 10, 2006 (mailed July 6, 2006), ("Original Petition"), Appellant represented that the failure to timely file a separate request for an oral hearing was inadvertent but did not set forth any reason why a hearing is deemed necessary or desirable for a proper presentation of this appeal. *See* 37 C.F.R. § 41.47(a).

4. In a Decision on Petition mailed October 12, 2006, the Original Petition was denied without prejudice to the filing of a renewed petition "explaining why an oral hearing is deemed necessary or desirable for a proper presentation of this appeal."

5. In the Renewed Petition, Appellant argues that the PTO Rules of Practice do not require that "an Appellant provide specific reasons why the Appellant desires an oral hearing," citing 37 C.F.R. §§ 41.47(a), 41.47(b) and 41.47(d). And further, that "in denying Appellant's [Original] Petition, the Patent and Trademark Office goes beyond the scope of its authority granted under 37 C.F.R." Renewed Petition at 2-4. Appellant

further argues that the "main basis" for his request is his inadvertent failure to file a separate paper for requesting an oral hearing. *Id.* at 3.

6. In the Renewed Petition, Appellant also represents that an oral hearing would be desirable to allow him to have an opportunity to present arguments concerning an "unusual ground of rejection" under 35 U.S.C. § 112, as well as a rejection under 35 U.S.C. § 102. *Id.* at 4.

DISCUSSION

The Decision on Petition, in denying the Original Petition, never stated that, in the course of normal procedure, an appellant must present reasons why an oral hearing would be necessary or desirable as a prerequisite to the granting of an oral hearing. Appellant is correct that, in the course of normal procedure, the requirements for the granting of an oral hearing are specified in 37 C.F.R. § 41.47(b), including the filing of a separate paper captioned "Request for Oral Hearing." Here, albeit allegedly inadvertently, Appellant admittedly did not and cannot now comply with those requirements.

In requesting Appellant to demonstrate good cause why the requirements of 37 C.F.R. § 41.47(b) should be suspended, the Board has used as a guideline for good cause the admonition of 37 C.F.R. § 41.47(a) that oral hearings "should only be requested in those circumstances in which appellant considers such a hearing necessary or desirable for a proper presentation of the appeal." This is deemed to be an imminently reasonable prerequisite for suspending the requirements of 37 C.F.R. § 41.47(b). The Board will not knowingly suspend the rules to abet substantively unimportant activity.

In respect to substantive issues, Appellant's representation that this appeal presents "an unusual rejection" under 35 U.S.C. § 112, constitutes a sufficient reason why an oral hearing would be desirable for the benefit of both Appellant and the administrative patent judges assigned to this appeal.

DECISION

Accordingly, the Renewed Petition is **GRANTED.** The separate paper requirement of 37 C.F.R. § 41.47(b) is suspended for this appeal and an oral hearing will be scheduled.

Michael R. Fleming
Chief Administrative Patent Judge
Board of Patent Appeals and Interferences

H. Jay Spiegel
H. Jay Spiegel & Associates
P.O. Box 11
Mount Vernon, Virginia 22121

Tel: (703) 619-0101

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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H. JAY SPIEGEL
P.O. BOX 11
MOUNT VERNON, VA 22121

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OCT 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Spiegel, H. Jay	:	
Application No. 10/747,179	:	ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. HJS-22	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 19, 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 Corrected Drawings, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 9, 2006

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/747222 Patent No.: 7,013,044

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: The corrections does not introduce new matter, nor it changes the meaning or the scope of the claims.

SAMIR AHMED
PRIMARY EXAMINER

SPE **Art Unit** 2624

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

OCT 03 2006
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of	:	
Stephen Vaughan Murphy, et al.	:	DECISION ON PETITION
Application No. 10/747,256	:	TO REMAIL
Filed: December 30, 2003	:	OFFICE ACTION
For: **CALL WAITING USING EXTERNAL NOTIFICATION AND PRESENCE DETECTION**	:	

This is a decision on the petition filed on September 28, 2006, requesting that the Non-final rejection mailed on September 20, 2006 be re-mailed and the shortened statutory period for response thereto, be reset.

A review of the file finds that a Non-final Office action was mailed on September 20, 2006, but was returned undelivered by the United States Postal Service on September 26, 2006. A further review of the file finds that the Office action was mailed to a correct correspondence address of record. The reason for action being cannot be determined. However, it is agreed that because the September 20, 2006 action was not properly delivered to applicant, that it should be re-mailed and the shortened statutory period for reply reset from the date of the new mailing.

Accordingly, the petition is **GRANTED**.

The Office action mailed September 20, 2006 is hereby VACATED and the shortened statutory period for response that was originally set forth in the Office action mailed on September 20, 2006 is hereby reset to run THREE MONTHS FROM THE MAILING DATE OF THE NEWLY RE-MAILED ACTION. The application is being forwarded to Technology Center 2600 technical support staff for re-mailing.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joseph W. Berenato, III
Liniak, Berenato & White, LLC
Suite 240
6550 Rock Spring Drive
Bethesda, MD 20817

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JUL 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Yukio Kawakami	:	
Application No. 10/747,257	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO WITHDRAW
Attorney Docket No. 6208.960	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak.

Thomas P. Liniak has been withdrawn as attorney or agents of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mattingly, Stanger & Malur, P.C.
104 East Hume Avenue
Alexandria VA 22301

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AUG 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Kawamoto, et al. :
Application No. 10/747,268 : ON PETITION
Filed: December 30, 2003 :
Attorney Docket No. NIT-405 :
For: HYDRAULIC OPERATING APPARATUS FOR SWITCH :

This is a decision on the petition, filed May 13, 2004, requesting that the application be accorded a filing date of December 30, 2003 with Figures 5 and 6 as part of the original application papers.

The petition under 37 CFR 1.53(e) is **DISMISSED**.

The application was filed on December 30, 2003. On April 27, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners that figures 5 and 6 appeared to have been omitted.

In response to the Notice, petitioners filed the present petition. Petitioners request that figures 5 and 6 be accorded a filing date of December 30, 2003 on the basis that 6 sheets of drawings, including figures 5 and 6, were received in the Patent and Trademark Office (PTO) on December 30, 2003. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing December 30, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 6 sheets of drawings. A review of the application file reveals that there are 4 sheets of drawings present. The drawings are of figures 1-4.

The return postcard constitutes *prima facie* evidence that 6 sheets of drawings, including missing figures 5 and 6, were filed on December 30, 2003. MPEP 503.

Unfortunately, the instant petition cannot be granted until the Office has a copy of figures 5 and 6. The application cannot be processed without a copy of figures 5 and 6. Petitioners are requested to submit a copy of figures 5 and 6 as soon as possible.

The application file will be retained in the Office of Petitions until the omitted sheets of drawings are submitted. Once the omitted sheets of drawings are submitted and the petition is granted, the $130.00 petition fee submitted with the instant petition will be credited to petitioners' deposit account.

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712. After September 28, 2004 please call (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mattingly, Stanger & Malur, P.C.
104 East Hume Avenue
Alexandria VA 22301

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SEP 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Kawamoto, et al.	:	
Application No. 10/747,268	:	ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. NIT-405	:	
For: HYDRAULIC OPERATING APPARATUS FOR SWITCH	:	

This is a decision on the reconsideration petition, filed August 31, 2004, requesting that the application be accorded a filing date of December 30, 2003 with Figures 5 and 6 as part of the original application papers.

The application was filed on December 30, 2003. On April 27, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners that figures 5 and 6 appeared to have been omitted.

In response to the Notice, petitioners filed the present petition. Petitioners request that figures 5 and 6 be accorded a filing date of December 30, 2003 on the basis that 6 sheets of drawings, including figures 5 and 6, were received in the Patent and Trademark Office (PTO) on December 30, 2003. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing December 30, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 6 sheets of drawings. A review of the application file reveals that there are 4 sheets of drawings present. The drawings are of figures 1-4.

The return postcard constitutes *prima facie* evidence that 6 sheets of drawings, including missing figures 5 and 6, were filed on December 30, 2003. MPEP 503.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**. The $130 petition fee submitted on May 13, 2004 will be credited to petitioners' credit card.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **December 30, 2003**, using the copy of figures 5 and 6 submitted with the instant reconsideration petition. Office records will be corrected to show that 6 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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AUG 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Cooper, et al.	:	
Application No. 10/747296	:	DECISION ON PETITION
Filed: December 29, 2003	:	
Attorney Docket No. UVSC.001A	:	

This is a decision on the petition, filed February 19, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice to File Corrected Application Papers (Notice) mailed September 27, 2007, which set a 60 day statutory period for reply. The Notice required correction of informalities related to the color drawings filed with the application. A Notice of Abandonment was mailed on January 8, 2008.

Petitioner asserts that the Notice dated September 27, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

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 and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

Corrected drawings were submitted with the instant petition on February 19, 2008 in response to the Notice. Accordingly, this application is being referred to the Office of Data Management for further processing of this application.

David Bucci
Petitions Examiner
Office of Petitions

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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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JUL 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Chang Hun Han	:	DECISION ON REQUEST
Application No. 10/747,307	:	FOR RECONSIDERATION OF
Filed: December 30, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 10024.0022	:	

This letter is in response to the "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT," filed April 8, 2008. Pursuant to applicant's duty of good faith and candor to the Office, applicant requests review of the patent term adjustment to date.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is zero (0) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is 0 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 9, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is one (1) day.

The Office initially determined a patent term adjustment of 1 (1) day based on an adjustment for PTO delay of sixty-six (66)

days, pursuant to 35 USC 154(b) and 37 CFR 1.703(a)(1), reduced by sixty-five (65) (2+61+2) days of applicant delay pursuant to 37 CFR 1.704(b).

Applicant requests that the PTA calculation be reviewed for accuracy. Specifically, applicant asserts that the patent term adjustment of one (1) day may be longer than appropriate, and that the correct patent term adjustment is zero (0) days.

A review of the record reveals that applicant should have been assessed an additional reduction in patent term adjustment of thirty (30) days for applicant delay. On December 14, 2005, a final rejection was mailed. On April 13, 2006, three (3) months and thirty (30) days after the date that the final rejection was mailed, applicants filed, in response, a Request for Continued Examination (RCE) and an amendment as the submission under 37 CFR 1.114.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is zero (0) days.

As the instant letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 CFR 1.705(b) was not required, and has not been charged.

The Office thanks Applicant for its good faith and candor in bringing this matter to the attention of the Office.

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

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

PALM INTRANET

Day : Tuesday
Date: 7/8/2008
Time: 14:00:39

PTA Calculations for Application: 10/747307			
Application Filing Date:	12/30/2003	PTO Delay (PTO):	66
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	65
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-30		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
80	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		30	
72	01/09/2008	MAIL NOTICE OF ALLOWANCE			
71	01/09/2008	MAIL EXAMINER'S AMENDMENT			
70	01/08/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
69	01/08/2008	CASE DOCKETED TO EXAMINER IN GAU			
67	12/31/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
66	12/31/2007	DOCUMENT VERIFICATION			
65	12/31/2007	EXAMINER'S AMENDMENT COMMUNICATION			
64	12/26/2007	ISSUE REVISION COMPLETED			
63	12/26/2007	NOTICE OF ALLOWABILITY			
60	10/17/2007	DATE FORWARDED TO EXAMINER			
59	10/15/2007	RESPONSE AFTER NON-FINAL ACTION		2	58
58	07/13/2007	MAIL NON-FINAL REJECTION			
57	07/09/2007	NON-FINAL REJECTION			
56	04/30/2007	DATE FORWARDED TO EXAMINER			
55	04/23/2007	RCE- AF PROCESSED			
54	04/30/2007	DATE FORWARDED TO EXAMINER			
53	04/23/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		61	45
52	04/30/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
51	04/23/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
50	04/23/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
49	03/29/2007	MAIL ADVISORY ACTION (PTOL - 303)			
48	03/28/2007	ADVISORY ACTION (PTOL-303)			

47	03/13/2007	DATE FORWARDED TO EXAMINER			
46	02/21/2007	AMENDMENT AFTER FINAL REJECTION			
45	11/21/2006	MAIL FINAL REJECTION (PTOL - 326)			
44	11/16/2006	FINAL REJECTION			
43	09/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	10/02/2006	DATE FORWARDED TO EXAMINER			
41	09/27/2006	RESPONSE AFTER NON-FINAL ACTION			
40.7	09/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	09/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	08/29/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
38	08/23/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
37	07/06/2006	MAIL NON-FINAL REJECTION			
36	06/26/2006	NON-FINAL REJECTION			
35	04/20/2006	DATE FORWARDED TO EXAMINER			
34	04/13/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
33	04/20/2006	DATE FORWARDED TO EXAMINER			
32	04/13/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
31	04/20/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
30	04/13/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	04/13/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
28	12/14/2005	MAIL FINAL REJECTION (PTOL - 326)			
27	12/12/2005	FINAL REJECTION			
26	10/12/2005	PARALEGAL TD ACCEPTED			
25	10/07/2005	DATE FORWARDED TO EXAMINER			
24	10/03/2005	RESPONSE AFTER NON-FINAL ACTION		2	21
23	10/03/2005	NEW OR ADDITIONAL DRAWING FILED			
22	10/03/2005	TERMINAL DISCLAIMER FILED			
21	07/01/2005	MAIL NON-FINAL REJECTION			
20	06/27/2005	NON-FINAL REJECTION			
19	06/09/2005	DATE FORWARDED TO EXAMINER			
18	06/02/2005	RESPONSE TO ELECTION / RESTRICTION FILED			

17	05/05/2005	MAIL RESTRICTION REQUIREMENT	66		-1
16	05/03/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
15	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
14	02/24/2005	CASE DOCKETED TO EXAMINER IN GAU			
13.7	12/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	12/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	05/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	05/07/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	05/07/2004	REFERENCE CAPTURE ON IDS			
9	12/30/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
8	04/26/2004	APPLICATION RETURN FROM OIPE			
7	04/26/2004	APPLICATION RETURN TO OIPE			
6	04/26/2004	APPLICATION DISPATCHED FROM OIPE			
5	04/26/2004	APPLICATION IS NOW COMPLETE			
4	02/26/2004	CLEARED BY OIPE CSR			
3	02/26/2004	CASE CLASSIFIED BY OIPE			
2	01/19/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/30/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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C/O INTELLEVATE, LLC
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MINNEAPOLIS MN 55402

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JUN 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Kumar et al.	:	
Application No. 10/747,332	:	DECISION ON PETITION
Filed: December 29, 2003	:	
Attorney Docket No. INTCP011	:	

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

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2619 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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LEON I. EDELSON, ESQ.
LEVENFELD PEARLSTEIN
P.O. BOX 0212
CHICAGO IL 60690-0212

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OFFICE OF PETITIONS

In re Application of	:	
Lin, Pei-Ying	:	
Application No. 10/747,338	:	ON PETITION
Filed: December 29, 2003	:	
Attorney Docket No. 34452-53064	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 11, 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, the issue fee and the publication fee; (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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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY ROAD
RIDGEFIELD, CT 06877-0368

Mail Date: 04/20/2010

Applicant	: Harald Wolf	: DECISION ON REQUEST FOR
Patent Number	: 7604006	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/747,341	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1507** 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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ROSENBERG KLEIN & LEE
3458 ELLICOTT CENTER DRIVE – SUITE 101
ELLICOTT CITY, MD 21043

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of :
Yu-Yu Chen :
Application No. 10/747,356 :
Filed: December 30, 2003 :
Attorney Docket No. MR3375-3 :

ON PETITION

This is a decision on the petition filed December 18, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed September 2, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 3, 2005.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SALTAMAR INNOVATIONS
1 Mathewson Road
Barrington, RI 02806

Mail Date: 04/26/2010

Applicant	: Vincent Kadar	: DECISION ON REQUEST FOR
Patent Number	: 7649895	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/747,366	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1726** 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: T. Black~~

This was sent to the wrong Art Unit. It should have come to AU 2878.
Georgia Y Epps
SPE 2878

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/12/07

TO SPE OF : ART UNIT ~~3661~~ 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/747,369 Patent No.: 7126102

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: _____

Georgia Y. Epps
SPE

2878
Art Unit

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New York NY 10023

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OFFICE OF PETITIONS

In re Application of
Pang-Lun Yang
Application No. 10/747,379
Filed: December 29, 2003
Attorney Docket Number: U 014896-3
Title of Invention: Direct Backlight Module

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(b), filed December 29, 2003.

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

The above-identified application was filed on December 29, 2003, without a declaration executed by the sole inventor Pang-Lun Yang.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to provide items (1), (5) and (6).

As to item (1), rule 47 applicant has failed to provide sufficient evidence to establish inventor Yang cannot be reached. Applicant must demonstrate diligent efforts were made to find or reach non-signing inventor. See MPEP 409.03(d). Did rule 47 applicant contact known colleagues for a forwarding address of non-signing inventor? Was an electronic search conducted to locate the last known address? No statements have been provided in the petition to illustrate "diligent effort" was made to locate inventor Yang. Applicant should present copies of documentary evidence that support a finding that the non-signing inventor could not be found or reached and the steps taken to locate the non-signing inventor. If

the address provided in the declaration, applicant should make a showing that diligent effort has been made to locate the inventor. If applicant provides sufficient evidence that diligent effort has been made to locate the inventor and inventor can not be located, 47 applicant is not required to send a copy of the application.

As to item (5), Applicant has failed to provide any proof a proprietary interest is held in this application. Proprietary interest is usually established by establishing a) the invention has been assigned to applicant, or b) the inventor has agreed in writing to assign the invention to the applicant or c) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. See MPEP 409.03(f).

As to item (6), Applicant has not provided a showing that the granting of rule 47 status is necessary to preserve the rights of the party or prevent irreparable damage. See MPEP 409.03(h).

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 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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New York NY 10023

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SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of
Pang-Lun Yang
Application No.10/747,379
Filed: December 29, 2003
Attorney Docket Number: U 014896-3
Title of Invention: Direct Backlight Module

DECISION ACCORDING STATUS
UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition for status under 37 C.F.R. §1.47(b), filed August 2, 2004.

The petition is **GRANTED**.

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventor has refused to sign the declaration. This declaration has been reviewed and is found in compliance with 1.63 and 1.64. Applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the petition. The employment agreement establishes the applicant's proprietary interest in the application.

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

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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[1] A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

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VOLENTINE FRANCOS & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

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JUL 26 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Takeo Takahashi :
Application No. 10/747,400 :
Filed: December 30, 2003 :
Attorney Docket No.: OKI.632 :

This is a decision on the petition filed June 26, 2006 which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

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

The application was held abandoned on April 13, 2006, for failure to timely submit the issue fee, as required by the Notice of Allowance and Issue Fee Due mailed on January 12, 2006. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on June 9, 2006.

Petitioner asserts that the issue fee transmittal and an authorization to charge the issue was filed April 6, 2006.

In support, petitioner has submitted, *inter alia*, a copy of the issue fee transmittal form dated April 6, 2006 and a post card receipt date stamped April 6, 2006 by the USPTO. For payment of the issue fee, the copy of the issue fee transmittal form provided authorizes the issue fee to be charged to Deposit Account No. 50-0238. Petitioner also provides a copy of the Deposit Account Statement to show that the deposit account balance was sufficient on April 6, 2006 to deduct the issue fee, publication fee and fee for advanced copies as authorized on the issue fee transmittal.

A search of the application file and the USPTO records does not reveal receipt of the issue fee transmittal but, the petition and supporting documentation is sufficient to show that the issue fee was timely filed. Accordingly, the Notice of Abandonment mailed on April 6, 2006, is hereby withdrawn. No petition fee is necessary and none has been charged.

This matter will be referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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ATLANTA, GA 30339-5948

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of
Chung-Wen Ko et al
Application No. 10/747,406
Filed: December 30, 2003
Attorney Docket No. 08970.0005-00000

DECISION ON PETITION

This is a decision on the petition, filed July 26, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before October 14, 2005, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed July 14, 2005. A Notice of Allowability also required the submission of corrected drawings. A Notice of Abandonment was mailed on July 18, 2006.

Petitioner asserts that the Notices dated July 14, 2005 were never received.

A review of the written record indicates an irregularity in the mailing of the Notices of July 14, 2005. In this regard, the Notices of July 14, 2005 were returned to the U.S. Patent and Trademark Office (USPTO) on July 21, 2005, due to insufficient postage, and were not re-mailed with a new due date for payment of the issue and publication fees and submission of corrected drawings.

In view of the above, it is clear that the holding of abandonment is in error since applicants were never given Notice of the requirement to pay the issue and publication fees and to submit corrected drawings. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The issue fee of $1,400, the publication fee of $300, and corrected drawings (which have been approved by the USPTO Draftsperson; *note* attached Notice of Draftsperson's Patent Drawing Review), as required by the Notices of July 14, 2005, have been received. Therefore, it is unnecessary to re-mail the Notices setting a new reply period. Accordingly, this application is being directed to Publishing Division for processing into a patent.

Frances Hicks
Petitions Examiner
Office of Petitions
(571) 272-3218

ATTACHMENT: Notice of Draftspersons' Patent Drawing Review

Form PTO-948 (Rev. 06/03)
Application No. 10/747,406

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 06/06/2006 are:

A. ✓ approved by the Draftsperson under 37 CFR 1.84 or 1.152.

B. ____ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. Corrected drawings are required.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: Black ink or Color (3 sets required).

___ Color drawings are not acceptable until petition is granted. Fig(s)____

___ Pencil and non black ink not permitted. Fig(s)____

2. PHOTOGRAPHS. 37 CFR 1.84(b)

___ One (1) full-tone set is required. Fig(s)____

___ Photographs may not be mounted. 37 CFR 1.84(e)

___ Photographs must meet paper size requirements of 37 CFR 1.84(f). Fig(s)____

___ Poor quality (half-tone). Fig(s)____

3. TYPE OF PAPER. 37 CFR 1.84(e)

___ Paper not flexible, strong, white, and durable. Fig(s)____

___ Erasures, alterations, overwritings. interlineations, folds, copy machine marks not accepted. Fig(s)____

4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:

21.0 cm by 29.7 cm (DIN size A4) or
21.6 cm by 27.9 cm (8 1/2x 11 inches)

___ All drawing sheets not the same size. Sheet(s)____

___ Drawings sheets not an acceptable size. Fig(s)____

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:

Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

___ Margins not acceptable. Fig(s)____

____Top (T) ____ Left (L)

____Right (R) ____ Bottom (B)

6. VIEWS. 37 CFR 1.84(h)

REMINDER: Specification may require revision to correspond to drawing changes, e.g., if Fig. 1 is changed to Fig. 1A, Fig 1B and Fig. 1C, etc., the specification, at the Brief Description of the Drawings, must likewise be changed.

___Views not labeled separately or properly. Fig(s)____

7. SECTIONAL VIEWS. 37 CFR 1.84(h)(3)

____ Sectional designation should be noted with Arabic or Roman numbers. Fig(s)____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

___ Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s)____

9. SCALE. 37 CFR 1.84(k)

___ Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s)____

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)

___ Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s)____

11. SHADING. 37 CFR 1.84(m)

___ Solid black areas pale. Fig(s) ____

___ Solid black shading not permitted. Fig(s)____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)

___ Numbers and reference characters not plain and legible. Fig(s)____

___ Figure legends are poor. Fig(s)____

___ Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1) Fig(s)____

___ English alphabet not used. 37 CFR 1.84(p)(2) Fig(s)____

___ Numbers, letters and reference characters must be at least 32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3). Fig(s)____

13. LEAD LINES. 37 CFR 1.84(q)

___ Lead lines missing. Fig(s)____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)

___ Sheets not numbered consecutively, and in Arabic numbers beginning with number 1. Sheet(s)____

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)

___ Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s)____

16. DESIGN DRAWINGS. 37 CFR 1.152

___ Surface shading shown not appropriate. Fig(s)____

___ Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Fig(s)____

COMMENTS:

Reviewer SON LAM

Date 08/16/2006

If you have questions, call (703) ~~305-8404~~ 305-0333 (EXT. 133)

Attachment to Paper No. ____

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SUITE 460
WHITE PLAINS NY 10606

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APR 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Dennis C. Palmer	:	
Application No. 10/747,413	:	ON PETITION
Filed: 29 December, 2003	:	
Atty Dkt No. AERO MARINE 201.2-KFM	:	

This is a decision on the petition under 1.137(b),[1] filed on 14 March, 2005, to revive the above-identified application.

The petition is **GRANTED**.

---

[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)).

This application became abandoned on 28 October, 2004, for failure to timely reply to the non-final Office action mailed on 27 July, 2004, 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 9 February, 2005.

Petitioner has submitted an amendment as the required reply.

The revocation and power of attorney by the assignee has been accepted. All correspondence will be sent to the new address of record.

The application file is being referred to Technology Center Art Unit 3747 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

cc: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

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MILDE & HOFFBERG, LLP
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OFFICE OF PETITIONS

In re Application of :
Palmer :
Application No. 10/747,413 :
Filed: December 29, 2003 :
Attorney Docket No. AERO MARINE 201.2-KFM :

ON PETITION

This is a decision on the petition under 37 C.F.R. 1.181, filed March 27, 2006 (certificate of mailing date March 23, 2006), to withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the Office action, mailed on September 23, 2005, which set forth an extendable 1 month period to submit an amendment in compliance with 37 CFR 1.121. A Notice of Abandonment was mailed on December 15, 2005.

Petitioner asserts that the application is not abandoned because the one month period for response was extendable for 5 additional months.

Petitioner submitted another amendment and a request for a five month extension of time and required fee on certificate of mailing date March 23, 2006. Extensions of time were still available on March 23, 2006. 37 CFR 1.136(a).

Therefore, the response was timely filed, the petition is **granted,** and the holding of abandonment is withdrawn.

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 file will be returned to Technology Center AU 3747 for consideration of the amendment filed with the instant petition.

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

CC: KENYON AND KENYON, LLP
ONE BROADWAY
NEW YORK, NY 10004

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OFFICE OF PETITIONS

In re Application of	:	
Shepard, et al.	:	
Application No. 10/747,420	:	DECISION ON PETITION
Filed: December 29, 2003	:	
Attorney Docket No. 659/1146	:	

This is a decision on the petition, filed July 17, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment (Notice), mailed December 12, 2007, which set an extendable one (1) month period for reply. A Notice of Abandonment was mailed on June 24, 2008.

Petitioners assert that the December 12, 2007 Notice was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and

3. a copy of the docket record where the non-received Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the June 24, 2008 Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The $130.00 petition fee will be refunded to petitioners' deposit account.

This application is being referred to the Technology Center technical support staff of Art Unit 3761 for re-mailing the December 12, 2007 Notice of Non-Compliant Amendment. The period for reply will run from the mailing date of the Notice.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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MAY 25 2005

Brooks Kushman P. C./FGTL
1000 Town Center
22nd Floor
SouthField, MI 48075-1238

In re application of	:	**DECISION ON PETITION**
Joseph Supina et al.	:	**TO MAKE SPECIAL**
Application No. 10/747,427	:	**(ACCELERATED**
Filed: December 29, 2003	:	**EXAMINATION)**
For: TRANSMISSION ARRANGEMENTS FOR HYBRID ELECTRIC VEHICLES		

This is in response to the petition filed on March 31, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

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

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

KJD/dcg: 5/12/05

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FORD GLOBAL TECHNOLOGIES
1 PARKLAND BLVD, SUITE 600 EAST
DEARBORN, MI 48126

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OFFICE OF PETITIONS

In re Application of	:	
Joseph Supina et al	:	
Application No. 10/747,427	:	ON PETITION
Filed: December 29, 2003	:	
Attorney Docket No. FMC 1593 PUS2/200-1003	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 24, 2006, 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 23, 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]

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

---

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

This matter is being referred to Technology Center AU 3681 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions

cc: BROOKS KUSHMAN P.C.
1000 TOWN CENTER, 22ND FLOOR
SOUTHFIELD, MI 48075-1238

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Nakae et al. :
Application No. 10/747,451 :
Filed: December 30, 2003 :
Attorney Docket No. 1840-0103006CNT :

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed January 23, 2007.

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

This application became abandoned for failure to timely submit the issue and publication fee(s), as required by the Notice of Allowance and Fee (s) Due which was mailed June 13, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 14, 2006. A Notice of Abandonment was mailed on October 23, 2006.

Petitioner asserts that the Notice of Allowance and Notice of Allowability mailed on June 13, 2006 was never received. A review of the record indicates the Notice of Allowance was mailed to an incorrect correspondence address. Petitioner submitted a Power of Attorney, change of correspondence address and statement under 37 CFR 3.73(b) on September 30, 2004. A review of the record shows that a copy of the change of correspondence address was received but not entered. Thus, the Notice of Allowance was improperly mailed.

This application is being forwarded to Art Unit 3663 for re-mailing of the Notice of Allowance and Notice of Allowability to the current correspondence address of record. The Notice of Allowance non-extendable period for reply will start upon the re-mailing of the Notice of Allowance.

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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APR 27 2006

OFFICE OF PETITIONS

In re Application of Hayakawa et al. :
Application No. 10/747,452 :
Filing Date: December 30, 2003 :
Attorney Docket No. 118196 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed March 23, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a non-final Office action (Restriction Requirement) on September 2, 2004.

The Office action was returned by undelivered by the USPS on September 9, 2004.

The Office did not receive a response to the Office action and the application became abandoned as of midnight on October 2, 2004.

A Notice of Abandonment was mailed on March 15, 2005.

Petitioner seeks withdrawal of the holding of abandonment based on non-receipt of the Office action.

A review of the returned Office action fails to indicate the return of the Office action was the result of any error by applicant. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3747 will be informed of the instant decision and the examiner will consider the "Response to Restriction and Election of Species Requirement" filed on August 22, 2005, 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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NEW YORK, NY 10174

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OFFICE OF PETITIONS

In re Application of	:	
Daniel M. GRUEN, et al	:	
Application No. 10/747,465	:	ON PETITION
Filed: December 29, 2003	:	
Attorney Docket No. 600177-075	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 7, 2009, 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, April 27, 2009, which did not specify a period for a reply. If no period for reply is specified, the maximum statutory period will apply and will expire six (6) months from the mailing of the Office action. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 28, 2009.

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) 2.

With respect to item 2: A review of the record shows that petitioner submitted a credit card payment of $1620 with the petition filed December 7, 2009. However, since the fee could not be collected, the submission does not meet the requirement as set forth in 37 CFR 1.17(m). No consideration on the merits can be given until the required fee is remitted.

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
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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.**

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

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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NEW YORK NY 10174

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OFFICE OF PETITIONS

In re Application of
Daniel M. GRUEN, et al
Application No. 10/747,465
Filed: December 29, 2003
Attorney Docket No. 600177-075

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 10, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 27, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

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

This application is being referred to Technology Center AU 2453 for appropriate action by the Examiner in the normal course of business.

/dcg/
Diane C. Goodwyn
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

HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445-2408

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MAY 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Xingwu Wang et al	:	
Application No. 10/747,472	:	DECISION ON PETITION
Filed: December 29, 2003	:	TO WITHDRAW
Attorney Docket No. XW-648	:	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 6, 2005.

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

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. 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 applicants.

This application is being referred to Technology Center AU 1775.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: CURATOLO SIDOTI CO., LPA
24500 CENTER RIDGE ROAD
SUITE 280
CLEVELAND, OH 44145

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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OFFICE OF PETITIONS

In re Application of	:	
Smith et al.	:	DECISION GRANTING PETITION
Application No. 10/747,476	:	
Filed: December 29, 2003	:	
Attorney Docket No. TRAK/02DV3	:	

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

This application became abandoned for failure to pay the issue fee as required by the Notice of Allowance and Fee(s) Due mailed on August 26, 2005, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on March 1, 2006.

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

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
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SEYFARTH SHAW LLP
131 S. DEARBORN ST.
SUITE 2400
CHICAGO, IL 60603-5803

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OFFICE OF PETITIONS

In re Application of	:	
Tomio Tanaka	:	
Application No. 10/747,496	:	DECISION ON PETITION
Filed: December 29, 2003	:	
Attorney Docket No. TJK/440	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 6, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 7, 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 $1500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1772 for appropriate action by the Examiner in the normal course of business on the reply received March 6, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of Kay :
Application No. 10/747,506 :
Filing Date: December 29, 2003 :
Attorney Docket No. 038190/270313 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed April 19, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

A non-final Office action was mailed July 26, 2005.

Attorney Nicholas Gallo prepared a reply to the Office action.

On August 31, 2005, an unidentified individual attempted to transmit the reply by facsimile transmission to the Office. The reply was not successfully transmitted to the Office. Petitioner's machine printed a report including the following language:

```
*************************
**   ERROR TX REPORT   **
*************************

TX FUNCTION WAS NOT COMPLETED

...

PGS. SENT   0
RESULT      NG    #018   BUSY/NO SIGNAL
```

Despite the language above, the individual believed the transmission of the 18 page reply had been successful. A stamp of the word "COMPLETED" was placed on the report along with an individual's initials. The individual indicated in a separate "Outgoing Fax Log" that the transmission of the 18 pages had been completed.

Petitioner states the individual has several years of experience and has sent thousands of facsimile transmissions.

Since the Office did not receive a reply to the non-final Office action, the application became abandoned on October 27, 2005.

A Notice of Abandonment was mailed on April 4, 2006.

Discussion:

The petition is largely based on actions taken by an unidentified individual. The petition does not include a statement by the individual having first hand knowledge of the circumstances concerning the facsimile transmission or supply a reason such a statement cannot be provided. Any request for reconsideration should include a statement by the person with first hand knowledge of all the facts surrounding the attempt to transmit the reply to the Office.

Petitioner fails to specifically discuss individual's training. Was the individual trained to verify the transmission had been successful? If yes, what portions of the report should the individual have considered prior to concluding the transmission was successful? Since the individual has sent thousands of facsimile transmissions, does the individual know why exactly the individual failed to recognize the reply had not been successfully transmitted?

Any request for reconsideration should discuss whether or not any other applications have ever become abandoned under similar circumstances.

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

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

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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SEP 26 2006
OFFICE OF PETITIONS

In re Application of Kay	:	
Application No. 10/747,506	:	Decision on Petition
Filing Date: December 29, 2003	:	
Attorney Docket No. 038190/270313	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 12, 2006, to revive the above-identified application.

The petition is **granted**.

A non-final Office action was mailed July 26, 2005. The Office failed to receive a reply. Since the Office did not receive a reply to the non-final Office action, the application became abandoned on October 27, 2005. A Notice of Abandonment was mailed on April 4, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1725 will be informed of the instant decision. The amendment filed June 12, 2006, will be entered and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 17 2005

PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

In re Application of	:
Deepak Thassu et al	:
Serial No.: 10/747,509	: PETITION TO MAKE SPECIAL
Filed: December 29, 2003	:
Attorney Docket No.: CEL01 P-302	:

This is in response to the petition filed April 19, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted.

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

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

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

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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KIOMARS ANVARI
1567 SERAFIX ROAD
ALAMON CA 94507

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APR 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Kiomars ANVARI	:	
Application No. 10/747,519	:	DECISION ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 10, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 10, 2007. Accordingly, the date of abandonment of this application is November 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) an adequate statement of unintentional delay.

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

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

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

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OFFICE OF PETITIONS

In re Application of :
Philip F. KLEBA et al. :
Application No. 10/747,528 : ON PETITION
Filed: December 29, 2003 :
Attorney Docket No. 5820.644 :

This is a decision on the petition under 37 CFR 1.137(b), September 22, 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 February 15, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 16, 2005.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/203,712, filed August 15, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted with the petition on September 22, 2005 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 16370
OKLAHOMA CITY OK 73113

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OFFICE OF PETITIONS

In re Application of	:	
Philip F. KLEBA et al.	:	
Application No. 10/747,528	:	ON PETITION
Filed: December 29, 2003	:	
Attorney Docket No. 5820.644	:	

This is a decision on the petition under 37 CFR 1.137(b), September 22, 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 February 15, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 16, 2005.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/203,712, filed August 15, 2005.

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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.

Brian Hearn
Petitions Examiner
Office of Petitions

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SP-TI-3-1
CORNING NY 14831

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In re Application of	:	
Crosby, Ian	:	
Application No. 10/747,536	:	ON PETITION
Filed: December 29, 2003	:	
Attorney Docket No. SP02-267	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 3, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

The Request for Continued Examination (RCE) filed with instant petition is improper. An RCE may only be filed after prosecution has been closed. Prosecution in an application is closed as used in this section when the application is under appeal, or that the last Office action is a final action (§1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application. Accordingly, the RCE fee of $790.00 will be credited to petitioner's deposit account as authorized.

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

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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In re Patent No. 7005764
Issue Date: February 28,2006
Application No. 10747538
Filed: December 29,2003
Attorney Docket No. CCP 2-051

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 3,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 3,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7005764	2006-02-28	10747538	2003-12-29	CCP 2-051

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John J. Okuley/	Date (YYYY-MM-DD)	2010-05-03
Name	John J. Okuley	Registration Number	59839

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Alexandria, VA 22313-1450
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JJGJR.: 09-07

Paper No: __

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OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of	:	
Eidenschink, et al.	:	DECISION
Application No.: 10/747,546	:	
Filing Date: 29 December, 2003	:	
Attorney Docket No. S63.2-11318US01	:	

This is a decision on the petition filed on 5 March, 2007, and considered as a request to withdraw the holding of abandonment 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]

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

[1] NOTE: **Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 5 October, 2006, with reply due under a non-extendable deadline on or before 5 January, 2007;

- the application went abandoned by operation of law after midnight 5 January, 2007;

- the Office mailed a Notice of Abandonment on 5 February, 2007;

- on 5 March, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that he did not receive a copy of the Notice of Allowance/Allowability and Fees Due, and further states that he has reviewed/searched his file and his docket records and has not found the Notice or a docket reference thereto, and provides in support of his statement his office records including docketing papers and a schedule of items due on 5 January, 2007, and the Notice in question for the instant application does not appear in those papers.

Notably, 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 immediate and 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, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

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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]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

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

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

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

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

> **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

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

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

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

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the 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 satisfied the showing as discussed above.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, the 5 February, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 3700 for further processing, including the re-mailing of the Notice of Allowance/Allowability and Fees Due with a new period of reply, 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[10]) 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

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

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www.uspto.gov

Toby H. Kusmer, Esq.
McDERMOTT, WILL & EMERY
28 State Street
Boston, MA 02109

Mail Date: 04/21/2010

Applicant	: John M. Dobbs	: DECISION ON REQUEST FOR
Patent Number	: 7638732	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/747,551	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2003	: 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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Toby H. Kusmer, Esq.
McDERMOTT, WILL & EMERY
28 State Street
Boston, MA 02109

Mail Date: 05/18/2010

Applicant : John M. Dobbs
Patent Number : 7638732
Issue Date : 12/29/2009
Application No : 10/747,551
Filed : 12/29/2003

: 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 **52** 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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APR 12 2005

GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA NY 12309

In re Application of	:	
Paul Cuddihy et al.	:	
Serial No.: 10/747,554	:	DECISION ON PETITION
Filed: December 23, 2003	:	
For: System and Method for Remote	:	
Monitoring in Home Activity of Persons	:	
Living Independently	:	

This is in response to applicants' petition filed November 19, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

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

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

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700, or by telephone at (571) 272-4050 or by facsimile transmission at (703) 872-9306.

Richard A. Bertsch, Director
Technology Center 3700

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MCDERMOTT, WILL & EMERY
28 STATE STREET
BOSTON, MA 02109-1775

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AUG 1 9 2004
OFFICE OF PETITIONS

In re Application of :
Dobbs, et al. :
Application No. 60/470,176 :
Filed: May 13, 2003 :
Attorney Docket No. 56229-155 :

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed July 2, 2004, requesting that the above-identified provisional application be accorded a filing date of May 13, 2003, rather than the presently accorded filing date of May 12, 2003.

Petitioners allege that the provisional application was deposited in Express Mail service on May 13, 2003. In support, the petition is accompanied by a copy of Express Mail Receipt No. EV297403323US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of May 13, 2003.

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

Accordingly, the provisional application is entitled to a filing date of May 13, 2003.

Since the instant petition has been granted, no petition fee is required.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of May 13, 2003 and issuance of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

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

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OFFICE OF PETITIONS

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST. LOUIS, MO 63102

In re Patent No.: 6,670,323	: CORRECTED DECISION ON
Issued: December 30, 2003	: APPLICATION FOR
Application No. 09/709,914	: PATENT TERM ADJUSTMENT
Filed: November 10, 2000	:
Atty. Dkt. No.: ~~BSP1-5531~~ BXTR 2034.1	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705," filed January 30, 2004. This petition is being treated under 37 CFR 1.705(d)[1] as an application for patent term adjustment. This decision corrects the decision mailed March 18, 2005.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is hereby **GRANTED**.

The above-identified application matured into U.S. Pat. No. 6,658,439 on December 30, 2003. The instant request for reconsideration was timely filed within thirty (30) days of issuance of the patent in accordance with 37 CFR 1.705(d). The Patent issued with a revised Patent Term Adjustment of 266 days.

Review of the application history reveals that under 37 CFR 1.702(a)(1), an adjustment of 315 days can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. In accordance with 37 CFR 1.703(a)(1), the delay began January 11, 2002, the day after the date that is fourteen months after the date on which the application was filed, and ended November 21, 2002, the date the Restriction Requirement was mailed.

[1] At the time of filing of the instant application for PTA, the provisions of 37 C.F.R. § 1.705(d) were available after the issuance of a patent but were limited to situations wherein the patent issues on a date other than the projected date of issue and this change necessitates a revision in the patent term indicated on the Notice of Allowance. The Office, however, construed this provision to include grounds for contesting any PALM entry affecting PTA which occurs after the mailing of the Notice of Allowance until the issuance of the patent regardless of whether the patent issues on a date other than the projected date of issue.

mmm

An additional adjustment of 71 days under 37 CFR 1.702(a)(4) can be attributed to the Office for failure to issue the payment within four months of payment of the issue fee. In accordance with 37 CFR 1.703(a)(6), the delay began October 21, 2003, the day after the date that is four months after the date the issue fee was paid, and ended December 30, 2003, the date the patent issued.

At the time of issuance of the patent, the adjustment of 386 days was reduced by 120 days for submission of a letter on June 20, 2003 entitled "COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE." Applicant argues that the submission of the referenced letter does not constitute a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704.

Patentee's argument has been reviewed and found convincing. The Office has found that a response submitted in response to the examiner's reasons for allowance does not constitute a failure to engage in reasonable efforts to conclude prosecution. *See*, 1247 Off. Gaz. Pat. Off. 111 (June 26, 2001) and MPEP 2732.

In view of the above, the patent should indicate an adjustment of 386 days as argued by applicants.

The Office will issue a certificate of correction in order to rectify this error. *See*, 35 USC 254 and 37 CFR 1.322. The required $200.00 application fee has been paid. No additional fee is due in connection with the certificate of correction. The certificate of correction will indicate that the term of the instant patent is extended or adjusted 386 days.

This application file is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction as indicated herein.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,670,323 B1
DATED	:	December 30, 2003
INVENTOR(S)	:	Looker, 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 266 days

Delete the phrase "by 266 days" and insert – by 386 days--

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ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA GA 30357-0037

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DEC 05 2008

OFFICE OF PETITIONS

In re Application of
RAJU, et al.
Application No. 10/747,616
Filed: December 30, 2003
Attorney Docket No. **C261 1040.1**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 24, 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). In view of the timely 3-month extension of time filed July 24, 2007, the date of abandonment of this application is July 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and submission under 37 CFR 1.114 and fee of $790; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. David S. Bradin 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. Bradin 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 concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1773 for processing of the RCE and submission in accordance with 37 CFR 1.114 and for appropriate action by the Examiner in the normal course of business.

Brian W. Brown
Petitions Examiner
Office of Petitions

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PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) C261 1040.1

First named inventor: K. V. S. N. Raju, et al.

Application No.: 10/747,616 Art Unit: 1773

Filed: December 30, 2003 Examiner: Vivian Chen

Title: Oxygen Barrier Material For Packaging

12/05/2008 CKHLOK 00000003 090528 10747616
01 FC:1453 1500.00 DA

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.

[X] Other than small entity – fee $ 1,500.00 (37 CFR 1.17(m))

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

[ ] has been filed previously on _____.
[X] 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.

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

[X] 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: 8/16/07

David S. Bradin, Esq. — Typed or printed name

37,783 — Registration Number, if applicable

Womble Carlyle Sandridge & Rice, PLLC — Address

919-484-2382 — Telephone Number

One Atlantic Center, Suite 3500
1201 West Peachtree Street, Atlanta, GA 30309
Address

Enclosures:
[ ] Fee Payment
[X] Reply
[ ] Terminal Disclaimer Form
[ ] Additional sheets containing statements establishing unintentional delay
[X] Other: Resp. to Not. of Improper Request for RCE; Amendment/Response; Copy of Notice of Improper Request for RCE; Transmittal Letter

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.

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

8/16/07
Date

Signature

Sandy Stufano
Typed or printed name of person signing certificate

PAGE 5/25 * RCVD AT 8/16/2007 4:50:11 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/3 * DNIS:2738300 * CSID:9194842340 * DURATION (mm-ss):14-38

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United States Patent and Trademark Office
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AUG 2 0 2007

OFFICE OF PETITIONS

SCOT BOALICK
USPTO
600 DULANY STREET
ALEXANDRIA, VA 22313

In re Application of	:	
Noel Enete et al.	:	
Application No. 10/747,623	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO WITHDRAW
Attorney Docket No. 06975-388001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **APPROVED**.

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

The request was signed by Scott Boalick. Scott Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **FISH & RICHARDSON P.C.**
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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

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AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
ENETE, et al.	:	
Application No. 10/747,624	:	DECISION ON PETITION
Filed: December 3, 2003	:	TO WITHDRAW
Attorney Docket No. **06975-387001/Communicat**	:	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 02, 2007.

The request is **APPROVED.**

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

The request was signed by Scott R. Boalick. Soctt R. Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed July 16, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Carsten Jensen, et al.	:	
Application No. 10/747,630	:	DECISION ON PETITION
Filed: December 29, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 30120/32005		

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 16, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is applicable to those 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). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

The instant petition does not 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 August 16, 2004 does not state the relationship of PCTApplication No. PCT/DK02/00459, filed July 2, 2002, to the instant application.

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 applications to the instant application is required.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Sherry Brinkley at (571) 272-3204.

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

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

[1] *Note* 37 CFR 1.121

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6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606

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JAN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Carsten Jensen, et al.	:	
Application No. 10/747,630	:	DECISION ON PETITION
Filed: December 29, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 30120/32005		

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on November 1, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of prior-filed PCT Application No. PCT/DK02/00459, filed July 2, 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(s), unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

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

The instant pending application was filed on December 29, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

This application is being forwarded to Technology Center Art Unit 3643 for consideration by the Examiner of the amendment filed November 1, 2004, including applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to PCT application No. PCT/DK02/00459, filed July 2, 2002.

Telephone inquiries related to this decision should be directed to Sherry D. Brinkley at (571) 272-3204.

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

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

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6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606

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JAN 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Carsten Jensen, et al. :
Application No. 10/747,630 : DECISION ON PETITION
Filed: December 29, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 30120/32005

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on November 1, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of prior-filed PCT Application No. PCT/DK02/00459, filed July 2, 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(s), unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

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

The instant pending application was filed on December 29, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

This application is being forwarded to Technology Center Art Unit 3643 for consideration by the Examiner of the amendment filed November 1, 2004, including applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to PCT application No. PCT/DK02/00459, filed July 2, 2002.

Telephone inquiries related to this decision should be directed to Sherry D. Brinkley at (571) 272-3204.

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

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

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CHICAGO IL 60606

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In re Application of McEvilly et al. Application No. 10/747,634 Filed: December 29, 2003 Attorney Docket No. 29505/39547	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 7, 2004.

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

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 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).

On April 9, 2004, applicant was mailed a Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted, requiring a new oath or declaration identifying the citizenship of each inventor, the signatures of inventors McEvilly, Chatterjee, Guo, Nagel and White, and a surcharge. This Notice set a two-month extendable period for reply.

On June 7, 2004, applicant filed the present petition, a declaration signed by five of the six joint inventors, and paid the surcharge for late filing of the declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The present petition does not satisfy requirement (2).

Applicant has failed to submit an oath or declaration in compliance with 37 CFR 1.63 and 1.64. The declaration is not acceptable because the alteration to the mailing address of Jens Nagel and the residence and citizenship of Rudolf Schusteritsch are not **initialed and dated.**[1] The Manual of Patent Examining Procedure states that it is "improper for anyone, including counsel, to alter, rewrite, or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the applicant." Furthermore, the Office "will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration."[2]

Pursuant to Section 603 of the Manual of Patent Examining Procedure, "Deficiencies or inaccuracies in an oath or declaration may be corrected by a supplemental oath or declaration. The supplemental oath or declaration must (1) identify the entire inventive entity, and (2) be signed by all the inventors when the correction relates to all the inventors or applicants (37 CFR 1.42, 1.43, or 1.47), **or by only those inventor(s) or applicants (37 CFR 1.42, 1.43, or 1.47) to whom the corrections relates**. See 37 CFR 1.67(a)."

Accordingly, on renewed petition, applicant must submit a declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 and signed by inventors Nagel and Schusteritsch.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Petitions Attorney:**

---

[1] "Any interlineation, erasure, cancellation or other alteration of the application papers...should be dated and initialed or signed by the applicant on the same sheet of paper." 37 CFR 1.52(c)(1).

[2] MPEP 605.04(a).

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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233 S. WACKER DRIVE
CHICAGO IL 60606

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In re Application of	:	
McEvilly et al.	:	DECISION GRANTING STATUS
Application No. 10/747,634	:	UNDER 37 CFR 1.47(a)
Filed: December 29, 2003	:	
Attorney Docket No. 29505/39547	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 13, 2004.

The petition is granted.

Petitioner has shown that Marie White, the non-signing inventor, cannot be located to join in the filing of the above-identified application after diligent efforts to find her.

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

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

The matter is being forwarded to Technology Center Art Unit 2681 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York, NY 10036

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OFFICE OF PETITIONS

In re Application of	:	
Mitchell S. Steiner, et. al.	:	
Application No. 10/747,686	:	DECISION ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. P-2769-US9	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office action of August 24, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1 the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

The United States Patent and Trademark Office received a payment of $2230 for a five month extension of time on September 25, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2230 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to the petitioner's deposit account.

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

This application is being referred to Technology Center AU 1618 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

DEC 07 2004

TECHNOLOGY CENTER 3600

Law Office of Adrienne B. Naumann
8210 North Tripp
Skokie, IL 60076

In re application of:
Marvin J. Williams Jr.
Application No. 10/747,728
Filed: December 29, 2003
For: COMBINED INTERCROPPING AND MULCHING METHOD

: **DECISION ON REQUEST**
: **FOR WITHDRAWAL OF**
: **ATTORNEY**

This is a decision on the request filed on April 9, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

As to condition A), the attorney signing the request does not have power of attorney in this application. There is no record of power of attorney ever being given to the attorney making the request.

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

KJD/vdb: 10/25/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 08-04

Paper No: __

GENERAL ELECTRIC COMPANY (PCPI)
C/O FLETCHER YODER
P.O BOX 692289
HOUSTON TX 77269-2289

COPY MAILED
AUG 0 5 2005
OFFICE OF PETITIONS

In re Application of	:	
Lorraine, et al.	:	
Application No. 10/747,739	:	ON PETITION
Filed: 29 December, 2003	:	
Attorney Docket No. RD25422-1	:	

This is a decision on the petition filed (originally with an incorrect application number) on 6 July, 2004, under 37 C.F.R. §1.47(a).

The Office regrets the delay in addressing this matter.

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and 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 "Petition under 37 C.F.R. §1.47";

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

BACKGROUND

The record indicates:

- the instant application was filed on 29 December, 2003, without, *inter alia*, a fully executed oath/declaration;

- on 12 April, 2004, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- on 6 July, 2004, Petitioner filed the instant petition with, *inter alia*, a statement by Petitioner Paul J. DiConza (Reg. No. 48,418), along with an oath/declaration containing the signature of named co-inventor Lorraine (for himself and on behalf of) but without the signature of named non-signing co-inventor Ronald Alan Kline (Mr. Kline), a narration the statement of, and an averment that the oath or declaration was presented to Mr. Kline and references attached documents–however, while the attached assignment references (in hand note) a transmittal letter, the transmittal letter is not attached to evidence/demonstrate that the entire application (description, claims, abstract, drawings) was presented to the non-signing inventor Mr. Kline along with the oath or declaration;

- in advance of the mailing of this decision, a call was placed to Counsel on 4 August, 2005, and a copy of the letter will be provided when the petition is resubmitted.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:

(1)Identify the application to which it is directed;

(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

409.03(d) Proof of Unavailability or Refusal

INVENTOR CANNOT BE REACHED

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached

should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

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. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

> When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

CONCLUSION

The record as it stands suggests the transmission of the entire application (description, claims, abstract and drawings), but references one or more documents not in evidence (e.g., the transmittal letter). The evidence of these requirements should be submitted with any renewed petition.

Out of an abundance of caution and because, *inter alia*, a property right is in question, Petitioner is requested to submit a copy of the transmittal letter with a renewed petition.

Therefore, the instant petition hereby is **dismissed**.

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

---

[1] See: MPEP 409.03(b).

[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be 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 .)

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 04-06

Paper No: __

GENERAL ELECTRIC COMPANY (PCPI)
C/O FLETCHER YODER
P.O BOX 692289
HOUSTON TX 77269-2289

COPY MAILED

APR 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Lorraine, et al.	:	
Application No. 10/747,739	:	ON PETITION
Filed: 29 December, 2003	:	
Attorney Docket No. RD25422-1	:	

This is a decision on the petition filed on 5 April, 2006, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and 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 "Petition under 37 C.F.R. §1.47";

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

BACKGROUND

The record indicates:

- the instant application was filed on 29 December, 2003, without, *inter alia*, a fully

executed oath/declaration;

- on 12 April, 2004, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- the 6 July, 2004, original petition–with, *inter alia*, a statement by Petitioner Paul J. DiConza (Reg. No. 48,418), along with an oath/declaration containing the signature of named co-inventor Lorraine (for himself and on behalf of) but without the signature of named non-signing co-inventor Ronald Alan Kline (Mr. Kline), a narration the statement of, and an averment that the oath or declaration was presented to Mr. Kline and references attached documents–however, while the attached assignment references (in hand note) a transmittal letter, the transmittal letter is not attached to evidence/demonstrate that the entire application (description, claims, abstract, drawings) was presented to the non-signing inventor Mr. Kline along with the oath or declaration–was dismissed on 5 August, 2005, for that deficiency (in advance of the mailing of the decision, a call was placed to Counsel on 4 August, 2005, and a copy of the letter was to be provided when the petition is resubmitted;[1]

---

[1] The regulations at 37 C.F.R. §1.47 provide in pertinent part:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.
(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

* * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

§1.63 Oath or declaration.

(b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:

(1)Identify the application to which it is directed;

(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

409.03(d) Proof of Unavailability or Refusal

INVENTOR CANNOT BE REACHED

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

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. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R.

- Petitioner receive in the decision of 5 August, 2005, a two- (2-) month period within which to reply and was reminded that "[e]xtensions of time under 37 C.F.R. §1.136(a) are permitted," however, after the expiration of the reply period on 5 October, 2005, the maximum extension of five (5) months would have expired on 5 March, 2006, and the record is clear that Petitioner's Certificate of Mailing is set forth as "April 3, 2006."

Accordingly, it appears that the instant application went abandoned after midnight 5 October, 2005.

In order for Petitioner's instant petition under 37 C.F.R. §1.47 to be considered, Petitioner must first/also seek revival of the instant application under 37 C.F.R. §1.137(b).

CONCLUSION

The record as it stands suggests that the instant application stands abandoned

Therefore, the instant petition hereby is **dismissed**.

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

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

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

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

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§§1.63 and 1.64 signed by the Rule 1.47 applicant is required. (See: MPEP §409.03(b).)

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 04-06

Paper No: __

GENERAL ELECTRIC COMPANY (PCPI)
C/O FLETCHER YODER
P.O BOX 692289
HOUSTON TX 77269-2289

COPY MAILED

JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Lorraine, et al.	:	
Application No. 10/747,739	:	ON PETITION
Filed: 29 December, 2003	:	
Attorney Docket No. RD25422-1	:	

This is a decision on one of two petitions filed on 22 May, 2006–this under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 29 December, 2003, without, *inter alia*, a fully executed oath/declaration;
- on 12 April, 2004, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;
- the 6 July, 2004, original petition–with, *inter alia*, a statement by Petitioner Paul J. DiConza (Reg. No. 48,418), along with an oath/declaration containing the signature of named co-inventor Lorraine (for himself and on behalf of) but without the signature of named non-signing co-inventor Ronald Alan Kline (Mr. Kline), a narration the statement of, and an averment that the oath or declaration was presented to Mr. Kline and references attached documents–however, while the attached assignment references (in hand note) a

transmittal letter, the transmittal letter is not attached to evidence/demonstrate that the entire application (description, claims, abstract, drawings) was presented to the non-signing inventor Mr. Kline along with the oath or declaration–was dismissed on 5 August, 2005, for that deficiency (in advance of the mailing of the decision, a call was placed to Counsel on 4 August, 2005, and a copy of the letter was to be provided when the petition was resubmitted;

- Petitioner received in the decision of 5 August, 2005, a two- (2-) month period within which to reply and was reminded that "[e]xtensions of time under 37 C.F.R. §1.136(a) are permitted," however, after the expiration of the reply period on 5 October, 2005, the maximum extension of five (5) months would have expired on 5 March, 2006, and the record is clear that Petitioner's Certificate of Mailing is set forth as "April 3, 2006"–thus the petition was dismissed on 17 April, 2006, because the instant application went abandoned after midnight 5 October, 2005;

- with the instant petition, Petitioner also submitted a companion petition seeking to revive the instant application under 37 C.F.R. §1.137(b)–because the instant petition is grantable, and so constitutes the required reply for the petition to revive, and the petition to revive (obviously is accompanied by the reply and) is accompanied as required by the fee and a statement of unintentional delay, has been granted and the instant application is pending and no longer abandoned.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the 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 also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 04-06

Paper No: __

RONALD ALAN KLINE
4408 ST. ANDREWS COURT
NORMAN, OKLAHOMA 73072

COPY MAILED

JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Lorraine, et al.	:	
Application No. 10/747,739	:	COMMUNICATION
Filed: 29 December, 2003	:	
Attorney Docket No. RD25422-1	:	

Dear Ronald Alan Kline:

You are named as 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,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as 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 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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.

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 toll-free: (800) 972-6382 (outside the Washington D.C. area).

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

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

Counsel of Record:
GENERAL ELECTRIC COMPANY (PCPI)
C/O FLETCHER YODER
P.O BOX 692289
HOUSTON TX 77269-2289

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JJGJR.: 04-06

Paper No: __

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C/O FLETCHER YODER
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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Lorraine, et al.	:	
Application No. 10/747,739	:	ON PETITION
Filed: 29 December, 2003	:	
Attorney Docket No. RD25422-1	:	

This is a decision on one of two petitions filed on 22 May, 2006–this under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record indicates:

- the instant application was filed on 29 December, 2003, without, *inter alia*, a fully executed oath/declaration;

- on 12 April, 2004, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- the 6 July, 2004, original petition under 37 C.F.R. §1.47(a) –with, *inter alia*, a statement by Petitioner Paul J. DiConza (Reg. No. 48,418), along with an oath/declaration containing the signature of named co-inventor Lorraine (for himself and on behalf of) but without the signature of named non-signing co-inventor Ronald Alan Kline (Mr. Kline), a narration the statement of, and an averment that the oath or declaration was presented to Mr. Kline and references attached documents–however, while the attached assignment

references (in hand note) a transmittal letter, the transmittal letter was not attached to evidence/demonstrate that the entire application (description, claims, abstract, drawings) was presented to the non-signing inventor Mr. Kline along with the oath or declaration–was dismissed on 5 August, 2005, for that deficiency (in advance of the mailing of the decision, a call was placed to Counsel on 4 August, 2005, and a copy of the letter was to be provided when the petition was resubmitted;

- Petitioner received in the decision of 5 August, 2005, a two- (2-) month period within which to reply and was reminded that "[e]xtensions of time under 37 C.F.R. §1.136(a) are permitted," however, after the expiration of the reply period on 5 October, 2005, the maximum extension of five (5) months would have expired on 5 March, 2006, and the record is clear that Petitioner's Certificate of Mailing is set forth as "April 3, 2006"–thus the petition was dismissed on 17 April, 2006, because the instant application went abandoned after midnight 5 October, 2005;

- with the instant petition to revive under 37 C.F.R. §1.137(b), Petitioner also submitted a companion renewed petition–as the required reply for the petition to revive–under 37 C.F.R. §1.47, and because that is grantable and the instant petition also is accompanied as required by the fee and a statement of unintentional delay, Petitioner now appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

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

---

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

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

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
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 2800 for further processing as required before being forwarded to Publications Branch in due course.

---

[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.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 04-06

Paper No: __

GENERAL ELECTRIC COMPANY (PCPI)
C/O FLETCHER YODER
P.O BOX 692289
HOUSTON TX 77269-2289

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Lorraine, et al.	:	
Application No. 10/747,739	:	ON PETITION
Filed: 29 December, 2003	:	
Attorney Docket No. RD25422-1	:	

This is a decision on one of two petitions filed on 22 May, 2006–this under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 29 December, 2003, without, *inter alia*, a fully executed oath/declaration;
- on 12 April, 2004, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;
- the 6 July, 2004, original petition–with, *inter alia*, a statement by Petitioner Paul J. DiConza (Reg. No. 48,418), along with an oath/declaration containing the signature of named co-inventor Lorraine (for himself and on behalf of) but without the signature of named non-signing co-inventor Ronald Alan Kline (Mr. Kline), a narration the statement of, and an averment that the oath or declaration was presented to Mr. Kline and references attached documents–however, while the attached assignment references (in hand note) a

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Paper No.

FANN-MKE C/O
FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED

JUN 23 2010

OFFICE OF PETITIONS

In re Application of :
Whipple et al. :
Application No. 10/747,740 : ON APPLICATION FOR
Filed: December 29, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 037607-0257 :
Title: SYSTEM AND METHOD FOR :
CREATING FINANCIAL ASSETS :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed February 3, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, two hundred and forty-four (1244) days, not nine hundred and eighty-one (981) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

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

---

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

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

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: Jung-Fu Cheng	: DECISION ON REQUEST FOR
Patent Number	: 7599698	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/747,752	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1188** 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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MICHAEL I. KROLL
171 STILLWELL LANE
SYOSSET, NY 11791

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APR 19 2006
OFFICE OF PETITIONS

In re Application of	:
Timothy Dale Steele	:
Application No. 10/747,759	: DECISION GRANTING PETITION
Filed: December 29, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. TS-1-GW	:

This is a decision on the petition under 37 CFR 1.137(b), filed March 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before October 20, 2005 as required by the Notice of Allowance and Fee(s) Due mailed July 20, 2005. A Notice of Abandonment was mailed on December 8, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $700 issue fee; (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.

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

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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GOLDEN BRIDGE NY 10526

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OFFICE OF PETITIONS

In re Application of	:
Carmon et al.	:DECISION GRANTING PETITION
Application No. 10/747,767	:
Filed: 29 December, 2003	:
Attorney Docket No. 439/1	:

This is a decision on the petition filed on 18 August, 2004, which is treated as a petition requesting that the above-referenced application be accorded a filing date of 29 December, 2003, with Figure 3 as a part of the original disclosure.

The petition is **GRANTED**

The application was filed on 29 December, 2003. On 12 April, 2004, Initial Patent Examination Division mailed a "Notice to File Corrected Application Papers," stating that the application had been accorded a filing date of 29 December, 2003, and stating that Figure 3 described in the specification appeared to have been omitted from the application. An abstract of the technical disclosure in accordance with 37 CFR 1.72(b) was also required.

In response, on 18 August, 2004, the present petition was filed, accompanied by, *inter alia*, one (1) sheet of drawings containing Figure 3, the abstract, a three (3) month extension of time, and the petition fee. Petitioners assert that Figure 3 described in the specification was included in the Israeli priority document filed concurrently with the original application papers on 29 December, 2003.

A review of the priority document submitted on 29 December, 2003, reveals that it does include one (1) sheet of drawings containing Figure 3 which appears to be identical to the one (1) sheets of drawings containing Figure 3 which was intended to be filed on 29 December, 2003, and which appears to correspond to the figures

described in the specification. Accordingly, on petition, the drawings of Figure 3 in the Israeli priority document will be construed as the drawing of Figure 3 described in the specification for filing date purposes.

The copy of Figure 3 supplied with the present petition will be used for processing and examination. As the Notice correctly stated that Figure 3 *appeared* to have been omitted, the petition fee of $130.00 will not be refunded.

Petitioners' statements in the petition are being construed as a statement in accordance with 37 CFR 1.52(d) that the copy of Figure 3 is a complete copy of Figure 3 included in the Israeli priority document filed with the original application papers. Petitioners **must** inform the Office if this is an incorrect interpretation.

The application will be processed and examined with a filing date of 29 December, 2003, using the application papers filed on 29 December, 2003, and the copy of one (1) sheet of drawings containing Figure 3 supplied on 18 August, 2004.

The application file is being forwarded to Office of Initial Patent Examination for further processing with a filing date of 29 December, 2003, using the application papers filed on that date, and the copy supplied with the present petition of the one (1) sheet of drawings containing Figure 3 located in the Israeli priority document filed with the original application papers.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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233 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6357

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OFFICE OF PETITIONS

In re Application of	:	
Il-Seok Han	:	
Application No. 10/747,768	:	ON PETITION
Filed: December 29, 2003	:	
Attorney Docket No. 299256/39905		

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

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of
Joseph L. Cordina et al.
Application No. 10/747,770
Filed: December 29, 2003
Attorney Docket No. 5014-0002

ON PETITION

This is a decision on the petition filed May 30, 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 which was mailed July 10, 2006.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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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AUSTIN TX 78759

MAILED
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Technology Center 2100

In re Application of: Ranade
Application No. 10/747,782
Filed: December 29, 2003
For: COORDINATED DIRTY BLOCK TRACKING

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed November 05, 2004 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

4/7/05

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

MBS

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/26/06

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction on Patent No.: 6839008

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

Renford Barnie — **SPE**

2819 — **Art Unit**

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,839,008 B1

DATED : January 4, 2005

INVENTOR(S) : Jered M. Sandner

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

Column 2, line 5, delete "M-bit" and replace with --1xN-bit--;

Column 5, line 25, delete "WORDD[47:0]are" and replace with --WORDD[47:0] are--;

Column 5, line 48, delete " " " after the term "signal";

Column 6, line 51, delete "is" before the term "slave";

Column 6, line 59, delete "0.305" and replace with --305--;

Column 7, claim 3, line 25, delete "claim 1" and replace with --claim 2--;

Column 7, claim 4, line 30, delete "claim 1" and replace with --claim 2--;

Column 7, claim 5, line 32, delete "claim 1" and replace with --claim 2--;

Column 8, claim 11, line 40, delete "up-convening" and replace with --up-converting--.

MAILING ADDRESS OF SENDER:
Docket Clerk
P.O. Drawer 800889
Dallas, Texas 75380

PATENT NO. 6,839,008 B1

No. of additional copies
1

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

FEB 22 2006

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Paper No. 052705

AUG 01 2005

TROUTMAN SANDERS LLP
BANK OF AMERICA PLAZA
SUITE 5200
600 PEACHTREE STREET, NE
ATLANTA GA 30308-2216

In re Application of:	:	
ALEC SMIDT *et al.*	:	DECISION ON PETITION
Serial No.: 10/747,802	:	TO MAKE SPECIAL
Filed: December 29, 2003	:	
Attorney Docket No.: INTEL12	:	
For: **VOLTAGE LEVEL SHIFTER**		

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed May 14, 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 III: Applicant's Health.

An application may be made special upon a petition by applicant accompanied by any evidence showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course, such as a doctor's certificate or other medical certificate. No fee is required for such a petition.

The petition includes a statement from the applicant's doctor stating that Boubekuer Benhamida is in poor health.

Accordingly, the petition is GRANTED.

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 Dees at (571) 272-1569.

Jose Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Larry G. Brown
Motorola, Inc.
Law Department
8000 West Sunrise Boulevard
Fort Lauderdale FL 33322

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of
Khawand et al.
Application No. 10/747,844
Filed: December 29, 2003
Title of Invention: METHOD AND SYSTEM FOR EMPLOYING ADAPTIVE EVENT CODES

ON PETITION

This is a decision on the petition filed March 15, 2005 under 37 CFR 1.137(a) to revive the above-identified application.

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

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 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 file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on April 13, 2004. The Notice to File Missing Parts set a 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 June 14, 2004. A Notice of Abandonment was mailed on January 10, 2005.

PETITION TO REVIVE UNDER 37 CFR § 1.137(a)
A grantable petition under 37 CFR § 1.137(a) must be accompanied by:

(1) the required reply,[1]
(2) the petition fee,
(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) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (1).

As to item (1), although a declaration containing the signatures of inventors Tao and Vaglica has been submitted on petition, petitioner has failed to submit replacement drawings as required by the Notice of Missing Parts. On renewed petition replacement drawings should be submitted.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

enclosure

[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.

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8000 West Sunrise Boulevard
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AUG 1 5 2005

OFFICE OF PETITIONS

In re Application of
Khawand et al.
Application No. 10/747,844
Filed: December 29, 2003
Title of Invention: METHOD AND SYSTEM FOR EMPLOYING ADAPTIVE EVENT CODES

ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(a), filed June 30, 2005 to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on April 13, 2004. The Notice to File Missing Parts set a 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 June 14, 2004. A Notice of Abandonment was mailed on January 10, 2005. A petition under 37 CFR 1.137(a) was dismissed June 9, 2005.

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

This application is being forwarded to the Office of Initial Patent Examination for further processing of the oath or declaration and the replacement drawings.

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

Charlema R. Grant
Petition Attorney
Office of Petitions

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Paper No.

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of :
Pettit et al. :
Application No. 10/747,859 : DECISION ON PETITION
Filed: December 26, 2003 :
Atty Docket No. 501247.00298 :

This is in response to the REQUEST FOR ENTRY OF PREVIOUSLY-FILED REPLY AND WITHDRAWAL OF NOTICE OF ABANDONMENT filed December 8, 2006, which is properly treated as a petition under 37 CFR 1.181. This request was recently forwarded to the undersigned for consideration.

The above-identified application became abandoned for failure to file a reply to restriction requirement mailed March 6, 2006. This Office action set a one-month period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No reply having been received and no extensions obtained, the application became abandoned on April 7, 2006. A courtesy Notice of Abandonment was mailed on October 27, 2006.

Applicants filed the instant paper, asserting that a reply in response was timely mailed to the Office on April 4, 2006 (and resubmitted on September 7, 2006). In support thereof, applicants submitted a copy of the response and a copy of the front and back of their itemized return postcard date-stamped April 7, 2006. However, petitioner acknowledges that both submissions (and the postcard) incorrectly identified the Application as Serial No. 10/787,859.

A review of the petition and of the record of the misidentified application confirms that the response as petitioner maintains it was filed was, in fact, filed on April 7, 2006 with the wrong

application number. Moreover, otherwise, the response correctly identified the application to which it was directed by applicant name, filing date, and title. Further investigation reveals that the response with a date of receipt of April 7, 2006, and a certificate of mailing pursuant to 37 CFR 1.8 dated April 4, 2006, was entered in the misidentified application. This has been corrected. The response filed April 7, 2006, 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.

In view thereof, the notice of abandonment mailed October 27, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center Art Unit 3634 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response filed April 7, 2006 (and resubmitted September 7, 2006).

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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MORGAN, LEWIS & BOCKIUS, LLP
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

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SEP 15 2006
OFFICE OF PETITIONS

In re Patent No. 7,009,355	:	
Issue Date: March 7, 2006	:	
Application No. 10/747,889	:	ON PETITION
Filed: December 29, 2003	:	
Patentee(s): Jea Sung Heo	:	

This is a decision on the Request for Certificate of Correction filed on May 2, 2006, which is being treated as a request under 37 CFR 3.81[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 petition is **GRANTED**.

The patent file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

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JJGJr: 03-06

Paper No: __

MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
Cheong	:	
Application No. 10/747,906	:	ON PETITION
Filed: 29 December, 2003	:	
Attorney Docket No.: 11037-189-999	:	
	:	

This is a decision on the petition submitted on 7 February, 2006, alleging unintentional delay and requesting revival under 37 C.F.R. §1.137(b).

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

BACKGROUND

It appears that:

- Petitioners failed to reply timely and properly to a Notice of Allowance and Fees Due as to the drawings requirement of the contemporaneous Notice of Allowability mailed on16 November, 2004, with reply due under a non-extendable deadline on or before 16 February, 2005;
- the application went abandoned after midnight 16 February, 2005;
- the Office mailed a Notice of Abandonment on 20 May, 2005;

- with the instant petition (with fee), Petitioners paid the fees due as the reply to the 16 November, 2004, Notice(s), and filed and IDA and foreign references.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

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

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

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

---

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

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

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

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

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

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

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

Notably, this application was abandoned for just short of a year before the instant petition was filed. Moreover, almost nine (9) months lapsed between the Notice of abandonment and the filing of the instant petition, with which Petitioners also filed (contemporaneously with the Issue Fee) an IDS.

If the delay in the filing of the instant petition was to await the IDS so as to obtain its consideration without having to withdraw from issue and file a request for continued examination, the delay would not be unintentional.

However, Petitioners Jessica C. Stahnke (Reg. No. 57,570) for/and Thomas D. Kohler (Reg. No. 32,797) represent to the Office that the delay herein was unintentional, and the Office accepts that representation under Petitioners' duty of candor to the Office.[7]

Thus, Petitioners have filed the petition, paid the fee, filed the reply (paid the fees due) and made the statement of unintentional delay.

CONCLUSION

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

The instant application is released to Technology Center 3700 for consideration of the IDS.

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

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

---

[7] 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).

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DOWELL & DOWELL P.C.
103 Oronoco St.
Suite 220
Alexandria, VA 22314

Mail Date: 05/14/2010

Applicant	: Shalini Periyalwar	: DECISION ON REQUEST FOR
Patent Number	: 7646752	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/747,942	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1779** 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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RIDOUT & MAYBEE LLP
225 KING STREET WEST
10TH FLOOR
TORONTO, ON M5V 3M2
CANADA

Mail Date: 04/21/2010

Applicant	: Hamid Ould-Brahim	: DECISION ON REQUEST FOR
Patent Number	: 7593395	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/747,968	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1667** 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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GIFFORD KRASS GROH SPRINKLE
ANDERSON & CITKOWSKI, P.C.
280 N. OLD WOODWARD AVE., SUITE 400
BIRMINGHAM, MI 48009-5394

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Patrick Zuili	:	
Application No. 10/747,972	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO WITHDRAW
Attorney Docket No. BSM-10004/29	:	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 25, 2004.

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 G. Posa on behalf of all attorneys of record who are associated with Customer No. 25006.

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

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

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

David Bugel
Petitions Examiner
Office of Petitions

cc: Patrick Zuili
20077 Palm Island Dr.
Boca Raton, FL 33498

cc: Serge Atlan
Brite Smart Corporation
320 Plaza Real, Suite 209
Boca Raton, FL 33432

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/747,972	12/30/2003	Patrick Zuili	BSM-10004/29

CONFIRMATION NO. 9010

OC000000019600275

OC000000019600275

John G. Posa
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward Ave., Suite 400
Birmingham, MI 48009-5394

Date Mailed: 07/13/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2004.

- 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.

IRVIN DINGLE
OP (571) 272-3210

FORMER ATTORNEY/AGENT COPY

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Bib Data Sheet

CONFIRMATION NO. 9010

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/747,972	12/30/2003 RULE	235	2887	

APPLICANTS

Patrick Zuili, Boca Raton, FL;

**** CONTINUING DATA ****************************

This application is a CIP of 10/215,888 08/09/2002 PAT 7,083,090

**** FOREIGN APPLICATIONS ***********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** SMALL ENTITY **
** 04/27/2004

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed 35 USC 119 (a-d) conditions met Verified and Acknowledged	☐ yes ☐ no ☐ yes ☐ no ☐ Met after Allowance Examiner's Signature Initials	FL	9	18	1

ADDRESS

Patrick Zuili
20077 Palm Island Drive
Boca Raton, FL33498

TITLE

Smartcard authentication and authorization unit attachable to a PDA, computer, cell phone, or the like

FILING FEE RECEIVED		
385	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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Silicon Valley Patent Agency
7394 Wildflower Way
Cupertino, CA 95014

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JUN 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Patrick Zuili	:	
Application No. 10/747,972	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO WITHDRAW
Attorney Docket No. BSM-10004/29	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 1, 2008.

The request is **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 Joe Zheng on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Patrick Zuili at the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Patrick Zuili**
20077 Palm Island Drive
Boca Raton, FL 33498

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/747,972	12/30/2003	Patrick Zuili	BSM-10004/29

CONFIRMATION NO. 9010

POWER OF ATTORNEY NOTICE

26797
SILICON VALLEY PATENT AGENCY
7394 WILDFLOWER WAY
CUPERTINO, CA 95014

OC000000030438227

Date Mailed: 06/12/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/01/2008.

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

/tswilliams/

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

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07142004

JUL 15 2004

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

In re Application of: George M. Levinson et al. Serial No.: 10/747,974 Filed: December 30, 2003 Attorney Docket No.: **06335.00007**	: : : : :	DECISION ON PETION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed January 28, 2004, 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 VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a petition fee of $130.00, (b) a statement that all claims are directed a single invention and an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file 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.

The petition is granted to the extent indicated.

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

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August 2004

Stevens, Davis, Miller & Mosher, L.L.P.
1615 L Street NW, Suite 850
Washington, D.C. 20036

AUG 25 2004

In re Application of	:	
Masanori Minamio et al.	:	DECISION ON PETITION
Application No.: 10/747,982	:	TO MAKE SPECIAL
Filing Date: December 31, 2003	:	
Attorney's Docket No.: JEL 30763A	:	

This is a decision on the petition to make special under MPEP § 708.02 (VIII) filed on May 19, 2004 via facsimile transmission. Although the inventor information is incorrect on the petition, the filing date, the title and the continuation data given in the body of the petition indicates that the petition is in fact for Application No. 10/747,982.

The petition is **GRANTED**.

In order for an application to be granted special status under MPEP § 708.02 (VIII), an applicant has to satisfy the following five requirements:

(A) submit a petition accompanied by the fee set forth in 37 C.F.R. § 1.17(h);

(B) present all claims directed to a single invention or in the event that the United States Patent and Trademark Office determines that all the claims presented are not obviously directed to a single invention, make an election without traverse as a prerequisite to the grant of special status;

(C) state that a pre-examination search was made, listing the field of search;

(D) submit a copy of the most relevant references; and

(E) submit a detailed discussion of the references indicating how the claimed subject matter is patentable over the references.

The petition filed on May 19, 2004 includes a showing that complies with the above requirements to permit the application to be made special under the accelerated examination procedure.

Accordingly, the petition is **granted**.

The application will be indicated to be special and prosecution will proceed according to the accelerated examining procedures set forth in MPEP § 708.02 (VIII). However, as also set forth in MPEP § 708.02 VIII, if a restriction requirement is made by the Office and applicant refuses to make an election without traverse, the application will not be further examined at that time. Instead, the decision granting the petition will be revoked on the ground that all the claims are not directed to a single invention and the application will be returned to normal status and await action in its regular turn.

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

Edward Westin

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

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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 :
Eisuke Wayama et al :
Application No. 10/747,983 : ON PETITION
Filed: December 31, 2003 :
Attorney Docket No. 056203.49700C1

This is a decision on the petition, filed July 6, 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 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3747 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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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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Roy A. Ekstrand
Mattel, Inc
333 Continental Blvd.
El Segundo, CA 90245

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OFFICE OF PETITIONS

In re Application of	:	
James Elliott, et. al.	:	
Application No. 10/747,986	:	ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 15178(2)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 2005, to revive the above-identified application.

In response to the Notice to File Missing Parts of Nonprovisional Application mailed April 27, 2004, petitioner hereby submits an authorization to charge $1,500 for the petition to revive fee, $130 surcharge for the late filing of an Oath/Declaration, an executed Oath/Declaration, two (2) sheets of drawings containing Figures 1-4, and the statement of unintentional delay.

As authorized, the above fees have been charged to petitioner's deposit account.

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

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

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

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

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Douglas A. Hughes
Application No. 10/747,993
Filed: December 30, 2003
Attorney Docket No. 66046-0006

This is a decision on the petition filed February 6, 2006, under 37 CFR 1.137(a)[1], to revive the above-identified application.

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

This application became abandoned July 28, 2006 for failure to file a proper and timely response to the Final Office Action mailed April 27, 2005. Accordingly, a Notice of Abandonment was mailed December 14, 2005.

Petitioner argues that a response was in fact timely filed on August 3, 2005 with a one month extension of time request. In support of petitioner's claim is a copy of petitioner's response in the form of an amendment with a certificate of facsimile transmission dated August 3, 2005.

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

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

> 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.[2]

Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

In view of the certificate of facsimile transmission, pursuant to 37 CFR 1.8, it is concluded that the response to the Final Office Action was in fact timely filed on August 3, 2005.

Upon review of the amendment originally filed August 3, 2005 and resubmitted with the instant petition, the Examiner has determined that the amendment prima facie places the application in condition for allowance.

The matter is being referred to Technology Center 3681 for further examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[2] 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).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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September 7, 2006

FILE COPY

Patent No. : 6,967,441 B2
Ser. No. : 10/748005
Inventor(s) : Sun, et al.
Issued : November 22, 2005
Title : **PLASMA DISPLAY PANEL FOR MULTI-SCREEN SYSTEM**
Docket No. : **CNT-101/US**

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (571) 273-8300
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 or (703) 308-8309

Lumen Intellectual Property Services, Inc.
2nd Floor
2345 Yale
Palo Alto CA 94306

CBN/eme

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Lumen Intellectual Property Services, Inc.
2nd Floor 2345 Yale
Palo Alto CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
Sun et al.	:	
Application No. 10/748,005	:	DECISION ON PETITION
Filed: December 29, 2003	:	
Attorney Docket No. CNT-101	:	

This is a decision on the petition, filed November 9, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the second assignee, Boyan Sun, was unintentionally not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Boyan Sun is an assignee of record.

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

Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JUL 2 6 2004

In re Application of	:	
Matthias Krull, et al.	:	
Serial Number : 10/748,011	:	WITHDRAWAL
Filed : December 30, 2003	:	FROM
For : PROCESS FOR THE PREPARATION	:	ISSUE
OF ETHYLENE COPOLYMERS, AND	:	
THEIR USE AS ADDITIVES TO MINERAL	:	
OIL AND MINERAL OIL DISTILLATES	:	

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

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

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

Mary C. Lee, Director
Technology Center 1700
Chemical and Materials Engineering

Clariant Corporation
Intellectual Property Department
4000 Monroe Road
Charlotte, NC 28205

cc:Allowed Files, Pk3-915

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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 7,558,433 :
Todor Georgiev :
Issue Date: July 7, 2009 :
Application No. 10/748,013 : DECISION ON REQUEST FOR
Filed: December 30 2003 : RECONSIDERATION OF
Attorney Dkt. No. 07844- : PATENT TERM ADJUSTMENT
624001/P577 :
Title: Healing By Texture :
Synthesis In Differential Space :
:

This is in response to the " Application For Patent Term Adjustment Under 37 CFR §1.705(d)"filed September 3, 2009. Patentees request that the patent term be adjusted from 942 days to 980 days.

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

On July 7, 2009, the above-identified application matured into US Patent No. 7,558,433 with a patent term adjustment of 942 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentee requests 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 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 38 of 310 days, does not overlap with the 942 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day.

Patentee submits that the total period of adjustment for Office delay is the sum of the period of three-year delay (310 days) and the period of examination delay (942 days) to the extent these periods do not overlap. As such, patentees assert entitlement to a patent term adjustment of 980 days (942 days *plus* 310 days less 272 days of overlap).

The Office finds that as of the day before the filing of the request for continued examination (RCE) on November 4, 2007[1], the application was pending three years and 309 days after its filing date. An entry of a period of adjustment of 942 days was entered for Office delay. At issue is whether patentee should accrue an additional 309 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 942 days for Office failure to take a certain action within a specified time frame (or examination delay).

Patentee's 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

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[1] It is noted that Patentee is correct the first request for continued examination (RCE) was filed November 5, 2007, not October 5, 2007.

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 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 filing date December 30, 2003 until the day before the filing of the RCE on November 4, 2007. Prior to the issuance of the patent, 942 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

The Office did not delay 942 days and then delay an additional 309 days. Accordingly, 942 days of patent term adjustment for

Office delay (not 942 days and 309 days) was properly entered because the entire period of delay of 309 days attributable to the delay under 37 CFR 1.702(b) overlaps with the 942 days attributable to grounds specified in § 1.702(a)(1).

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent was 942 days.

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

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

/Kery A. Fries/

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

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SALT LAKE CITY, UT 84111

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Karin D. Caldwell et al	:	
Application No. 10/748,061	:	DECISION ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 14205.15	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 15, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed May 15, 2006. Accordingly, the date of abandonment of this application is August 16, 2006. A Notice of Abandonment was mailed on October 5, 2006, subsequent to the filing of the present petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Gerhard Meyer, et. al.	:	
Application No. 10/748,084	:	ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 30691/MEY5103	:	

This is a decision on the petition under 37 CFR 1.182, filed March 13, 2006, to change the order of the names of the inventors.

The petition is **granted**.

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

1. Gerhard Meyer

2. Thomas Conrad

This application is being referred to Technology Center Art Unit 1755, to await a response to the final Office action mailed July 11, 2006.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Patent No.7,608,552 :
Issue Date: October 27, 2009 :
Application No. 10/748,084 : ON PETITION
Filed: December 30, 2003 :
Attorney Docket No. **30882/MEY5103** :

This is a decision on the petition filed December 4, 2009, 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**.

Petitioner states that the correct assignee's name is "Chemichl AG, Vaduz (LI)" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. 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.

JoAnne Burke
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

Decision on Petition

In re Application of Conrad et al. :
Application No. 10/748,086 :
Filing Date: December 30, 2003 :
Attorney Docket No. 30691/MEY5102 :

This is a decision on the petition under 37 CFR 1.182, filed March 3, 2006, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors has been changed as follows:

1. Gerhard Meyer

2. Thomas Conrad

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: Corrected Filing Receipt

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Alisa A. Harbin, Esq.
Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville CA 94662-8097

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AUG 0 3 2006

OFFICE OF PETITIONS

In re Application of
O'Hagan
Application No. 10/748,117
Filed: December 29, 2003
Attorney Docket No. 20038.003
Title of Invention: Immunogenic
Compositions Containing Phospholipid

DECISION ON PETITION

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

This above-identified application became abandoned for failure to file a proper response to a Notice to File Missing Parts which was mailed on April 13, 2004. The Notice to File Missing Parts set an extendable two (2) month period for reply. A reply was submitted on June 17, 2004 (certificate of mailing June 14, 2004). A Notice of Incomplete Reply was mailed on June 30, 2004. Accordingly, this application became abandoned on June 14, 2004. 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**.

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 submitted. A courtesy copy of this decision will be mailed to Petitioner.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

CC: David B. Bonham
Mayer & Williams PC
251 North Avenue West, 2nd Fl.
Westfield, NJ 07090

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WASHINGTON, DC 20007

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
Scott Umlauf :
Application No. 10/748,124 :
Filed: December 31, 2003 :
For: NUCLEIC ACID VACCINE COMPOSITIONS:
HAVING A MAMMALIAN CD80/CD86 GENE :
PROMOTER DRIVING ANTIGEN EXPRESSION

ON PETITION

This is a decision on the petition filed April 5, 2005, which is being treated under the provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for a failure to timely respond to a Notice to File Missing Parts mailed June 1, 2004. The notice required the basic filing fee, additional claim fees and the requisite surcharge under 37 CFR 1.16(e). On February 5, 2005, a Notice of Abandonment was mailed. In response, on April 5, 2005, the present petition was filed, as well as the basic filing fee, additional claim fees and the requisite surcharge.

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

The application is being referred to the Office of Initial Patent Examination (OIPE) for further processing.

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

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

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OFFICE OF PETITIONS

In re Patent No. 7,488,472	:	
OKUYAMA et al.	:	
Issue Date: February 10, 2009	:	DECISION ON REQUEST FOR
Application No. 10/748,148	:	RECONSIDERATION OF
Filed: December 31, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 247103US0	:	

This is in response to the PETITION UNDER 37 C.F.R. §1.705(d) AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed April 6, 2009. Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from seven hundred forty-two (742) days to one thousand eighty-four (1084) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 742 days.

The above-identified application was filed on December 31, 2003. On March 19, 2008, a request for continued examination (RCE) was filed. On February 10, 2009, the above-identified application matured into U.S. Patent No. 7,488,472 with a revised patent term adjustment of 742 days. The Office determined that the 444 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B)[1] and 37

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under

CFR 1.702(b),[2] overlap with the 773 days of Office delay,[3] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1),[4] accorded prior to the filing of the request for continued examination. As such, the Office allowed entry of only the period of adjustment of 773 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 31 days of applicant delay, the patent issued with a revised patent term adjustment of 742 days.

On April 6, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of Patent Term Adjustment is 1084 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees contend that the periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap by 102

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35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

[2] As of the filing of the RCE on March 19, 2008, the application was pending three years and 444 days.

[3] A first Office action (Restriction Requirement) was not mailed April 12, 2007, 14 months and 773 days after the application was filed on December 31, 2003.

[4] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application[.]

days as they occur on the same calendar days in both periods. This overlapping period is the 102 days running from January 1, 2007 to April 12, 2007. Patentees maintain that the total non-overlapping PTO delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) is 1115 days as these periods do not occur on the same days. Given the 31 days of applicant delay, patentees assert entitlement to 1084 days of patent term adjustment.

The Office has considered patentees' interpretation of the period of overlap, but finds it inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

As explained in *Explanation of 37 CFR 1.703(f)*[5] *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

---

[5] 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.

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

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of filing of the application under 35 U.S.C. 111(a) on December 31, 2003, and ending on the date of filing of a request for continued examination on March 19, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The

relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 773 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. There were no Office delays subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 444 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

All of the 444 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 773 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 444 days and the 773 days is not warranted. The Office accorded the greater period of 773 days for Office delay. Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 742 days.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Peled et al.	:	
Application No. 10/748,178	:	ON PETITION
Filed: 31 December, 2003	:	
Atty Docket No. 27153	:	

This is a decision on the petition filed on 26 November, 2004, requesting that the above-identified application be accorded a filing date of 31 December, 2003, with Page 32 of the specification as a part of the original disclosure.

The petition is granted.

On 31 December, 2003, the application was filed.

Accordingly, on 15 October, 2004, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 31 December, 2003, but that Page 32 of the specification (description and claims) appeared to have been omitted.

In response, on 26 November, 2004, the present petition and Page 32 of the specification were filed. Petitioners argue that Page 32 of the specification was filed with the other application papers on 31 December, 2003, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" stamp of 31 December, 2003, and identifies the application by the first named inventor's name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, 60 pages of specification. Petitioners request that the application, including Page 32 of the specification, be accorded a filing date of 31 December, 2003.

A review of the record reveals that no Page 32 of the specification have been located among the application papers received on 31 December, 2003. However, the evidence is convincing that the application papers deposited on 31 December, 2003, included Page 32 of the specification (including the abstract), which was subsequently misplaced in the Office. Therefore, the application, including Page 32 of the specification, is entitled to a filing date of 31 December, 2003.

The "Notice" mailed on 15 October, 2004, is vacated.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 50-1407.

The application will be processed with the copy of Page 32 of the specification supplied on 26 November, 2004, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 31 December, 2003, using the application papers filed on that date, and the copy of Page 32 of the specification supplied with the present petition.

Telephone inquires 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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OFFICE OF PETITIONS

In re Application of Montagne :
Application No. 10/748,194 : Decision on Petition
Filing Date: December 31, 2003 :
Attorney Docket No. 033724-001 :

This is a decision on the petition under 37 CFR 1.181, filed March 8, 2006, to withdraw the holding of abandonment. The petition was filed and signed by applicant Montagne.

The petition is **granted.**

Facts:

A non-final Office action was mailed to the address of record on April 4, 2005.

The registered practitioners of record did not file a reply. Instead, the inventor mailed a reply to the Office action.

The reply filed by the inventor includes a certificate of mailing indicating the reply was mailed on September 30, 2003.

The date June 29, 2005, appears above the header on the reply.

The first four lines of the reply's header stated,

RE:	Application No. 10/748,194
Art Unit:	2167
Serial No.	PCT/US04/04532
Filing date:	13 February 2004

The current Art Unit for the application is 2166.

Application no. PCT/US04/04532 is an entirely separate application and the serial number for the instant application is not PCT/US04/04532.

The filing date for the instant application is December 31, 2003, and not February 13, 2004.

The Office received the reply on October 6, 2005.

Due to the errors in the reply's header, the reply was forwarded to PCT branch to be matched with application no. PCT/US04/04532.

As of December 1, 2005, the reply remained unmatched with the correct file. As a result, a Notice of Abandonment was mailed. The Notice of Abandonment stated a reply had not been received in response to the April 4, 2005 non-final Office action.

The reply was eventually matched with the instant application - 10/748,194.

The instant petition was filed on March 8, 2006.

Discussion:

A reply and request for an extension of time were timely filed in response to the April 4, 2005 Office action. Based on all the facts and circumstances, the Office has determined the header contained sufficient information to determine the proper application number for the reply. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Although a copy of the instant decision is being mailed to applicant, a copy of future correspondence will not be mailed to applicant. Applicant has appointed an attorney or agent to conduct all business before the Patent and Trademark Office. Double correspondence with an applicant and applicant's attorney or agent will not be undertaken. Accordingly, applicant is required to conduct all future correspondence with this Office through the attorney or agent of record. See 37 CFR 1.33. If petitioner no longer wishes to be represented by any practitioners, a revocation of power of attorney and change of address should be filed.

Technology Center Art Unit 2166 will be informed of the instant decision. The examiner will review the paper filed on October 6, 2005 (Certificate of Mailing date of September 30, 2005) 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

cc: Mike Montagne
POB 5
445 NW Bonanza Street
Sumpter, OR 97877

COCX

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/9/08

TO SPE OF : ART UNIT 2176

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/748208 Patent No.: 7305619B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

SPE

2176
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

Doug Hutton
SPE, Art Unit 2176

UNITED STATES PATENT AND TRADEMARK OFFICE

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SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
SUITE 300
3000 K STREET, NW
WASHINGTON DC 20007-5116

COPY MAILED

MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Paul A. Puniello et al	:	DECISION ON PETITION
Application No. 10/748,210	:	UNDER 37 CFR 1.47(a)
Filed: December 31, 2003	:	
Attorney Docket No. 20002.0365	:	

This is in response to the petition under 37 CFR 1.47(a), filed June 29, 2004, and in response to the papers filed July 6, 2004, which included a Declaration signed by a previously non-signing inventor, in compliance with 37 CFR 1.63. This is also a decision on the request for refund filed April 12, 2007.

The petition is **DISMISSED** as Moot.

In view of the joinder of the inventor, further consideration under § 1.47(a) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the record for this file.

The request for a refund of the $130 petition fee is denied. Even though, a decision was not rendered prior to the filing of the executed declaration on July 6, 2004, the petition fee was necessary at the time of filing the petition on June 29, 2004, in response to the Notice To File Missing Parts of Application mailed April 29, 2004. Therefore, the petition fee was not paid by mistake. See 37 CFR 1.26(a).

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 9, 2007

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/748229 Patent No.: 7,066,712 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: _____

Devin Hanan
Dev Hanan

Edward Tso
SPE

3745
Art Unit

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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MAY 16 2006

OFFICE OF PETITIONS

Applicant: Devries et al.
Appl. No.: 10/748,243
Filing Date: December 31, 2003
Title: DEVICES AND METHODS FOR TISSUE INVAGINATION
Attorney Docket No.: 06530.0295
Pub. No.: US 2005/0149072 A1
Pub. Date: July 7, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 5, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Kevin Brown	: DECISION ON REQUEST FOR
Patent Number	: 7606157	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/748,290	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1100** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JUN 19 2009

OFFICE OF PETITIONS

In re Application of :
Cheng Chen Bong :
Application No. 10/748,291 :
Filed: December 31, 2003 :
Attorney Docket No. T-1779 (CFP-014748) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 16, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 17, 2006. The Notice of Abandonment was mailed May 25, 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 $810; and (3) an adequate statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 1724 for appropriate action on the concurrently filed amendment.

Chris Bottorff
Petitions Examiner
Office of Petitions

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Paper No. 030905

JOHN G. POSA
GLIFFORD, KRASS, GROH, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
280 N. OLD WOODWARD AVE., SUITE 400
BIRMINGHAM, MI 48009-5394

AUG 25 2005

In re Application of:	:	
ZUILI, PATRICK	:	
Serial No.: 10/748,323	:	DECISION ON REQUEST TO WITHDRAW
Filed: December 30, 2003	:	FROM RECORD
Attorney Docket No.: **BSM-10003/29**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed October 25, 2004 and resubmitted filed December 06, 2004.

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

The request meets all the above stated requirements. The request was signed by John G. Posa, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

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

All future communications from the Office will be directed to the assignee, Serge Atlan, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: SERGE ATLAN
BRITE SMART CORPORATION
320 PLAZA REAL, SUITE 209
BOCA RATON, FL 33432

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/26/09

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction for Appl. No.: 10748362 Patent No.: 6947051 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 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: _____

_____

Kee Tung 2628_
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of	:	
SU, xing	:	
Application No. 10/748,374	:	DECISION ON PETITION
Filed: December 29, 2003	:	TO WITHDRAW
Attorney Docket No. **21058/0206460-US0**	:	FROM RECORD
	:	

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

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

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER LLP** has been revoked by the assignee of the patent application on August 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DARBY & DARBY PC**
P.O. BOX 770
NEW YORK, NY 10008--0770

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of
Mineo Yamakawa, et al
Application No. 10/748,389
Filed: December 29, 2003
Attorney Docket No. 21058/0206773-US0

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 2, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Morrison & Foerster LLP has been revoked by the assignee of the patent application on May 15, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed May 15, 2007 that requires a reply by the applicant.

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

April Wise
Petitions Examiner
Office of Petitions

cc: RAJ S. DAVE, PH.D.
DARBY & DARBY, P.C.
1500 K STREET, N.W.
WASHINGTON, DC 20005-1714

UNITED STATES PATENT AND TRADEMARK OFFICE

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Client 21058
c/o DARBY & DARBY P.C.
P.O BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Mineo Yamakawa et al.	:	
Application No. 10/748,389	:	DECISION ON PETITION
Filed: December 19, 2003	:	TO WITHDRAW
Attorney Docket No. **21058/0206773-US0**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed July 13, 2009.

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

A review of the file record indicates that the power of attorney to attorneys/agents associated with the above application has been revoked by the assignee of the patent application on August 19, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Pillsbury Winthrop Shaw Pittman LLP
P.O. Box 10500
McLean VA 22102SUITE 1600
IRVINE CA 92614-2558

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RAJ S. DAVE
MORRISON & FOERSTER LLP
1650 TYSONS BLVD., SUITE 300
McLEAN, VA 22102

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MAR 09 2007
OFFICE OF PETITIONS

In re Application of	:
Selena Chan et al	:
Application No. 107/748,390	: DECISION GRANTING PETITION
Filed: December 29, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 070702007200	:

This is a decision on the petition, filed March 9, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 31, 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 1641 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\748390.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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JUN 11 2007

OFFICE OF PETITIONS

Morrison & Foerster, LLP
1650 Tysons Blvd., Suite 300
McLean, VA 22102

In re Application of
Selena Chan et al.
Application No. 10/748,390
Filed: December 29, 2003
Attorney Docket No. 070702007200

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 23, 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 Peter J. Davis on behalf of all attorneys of record who are associated with customer No. 25227. All attorneys/agents associated with the Customer Number 25227 have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the assignee. A courtesy copy of this decision will be mailed to address noted on the request to withdraw. If the assignee desires to appoint counsel to represent him, then the appropriate power of attorney documents must be submitted. *Note* 37 CFR 3.73(b).

There are no outstanding office actions at this time.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Intel Corporation
2200 Mission College Boulevard
Santa Clara, CA 95052

cc: Raj S. Dave
Darby & Darby
1500 K Street, N.W.
Suite 250
Washington, DC 20005-1714

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/748,390	12/29/2003	Selena Chan	070702007200

CONFIRMATION NO. 8160

OC000000024294245

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/11/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/23/2007.

- 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.

Kimberly Grabnit

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

FORMER ATTORNEY/AGENT COPY

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APR 30 2007

OFFICE OF PETITIONS

PATENT DEPARTMENT – 53051
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

In re Application of	:	
Adam J. Weissman, et al	:	
Application No. 10/748,399	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO WITHDRAW
Attorney Docket No. 53051/292648	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 8, 2007.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does 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, "if 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, transferring files to another firm, does not meet any of the conditions set forth in 37 CFR 10.40.

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

There are no Office actions pending at the present time.

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

April Wise
Petitions Examiner
Office of Petitions

cc: JOHN A. DRAGSETH, ESQ.
FISH & RICHARDSON P.C.
60 SOUTH SIXTH STREET,
SUITE 3300
MINNEAPOLIS, MN 55402

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PATENT DEPARTMENT
KILPATRICK STOCKTON, LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of
Adam J. WEISSMAN, et al
Application No. 10/748,399
Filed: December 29, 2003
Attorney Docket No. 53051/292648

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 30, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Kilpatrick Stockton LLP, has been revoked by the assignee of the patent application on June 29, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

April Wise
Petitions Examiner
Office of Petitions

cc: JOHN A. DRAGSETH, ESQ.
FISH & RICHARDSON, P.C.
60 SOUTH SIXTH STREET,
SUITE 3300
MINNEAPOLIS, MN 55402

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Adam J. Weissman, et al.	:	
Application No. 10/748,399	:	ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 16113-422001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 16, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 17, 2009. The Notice of Abandonment was mailed November 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.

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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats.

1988). Since the $2,350 extension of time fee submitted with the petition on March 1, 2010 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 the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 2169 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.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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JUNG-HUA KUO ATTORNEY AT LAW
C/OINTELLEVATE
P. O. BOX 52050
MINNEAPOLIS MN 55402

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AUG 2 9 2008

OFFICE OF PETITIONS

In re Application of :
David Minturn :
Application No. 10/748,415 : DECISION ON PETITION
Filed: December 30, 2003 :
Attorney Docket No. INTCP005 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action, which was mailed on October 9, 2007. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 10, 2008. A Notice of Abandonment was mailed on April 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

In light of the rejected power of attorney, 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) 272-3215.

This application is being referred to Technology Center AU 2144 for appropriate action by the Examiner in the normal course of business on the reply received.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Daly, Crowley, Mofford & Durkee, LLP
354A Turnpike Street-Suite 301A
Canton, MA 02021-2714

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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SEP 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Schurig, et al. :
Filed: December 30, 2003 : ON PETITION
Application No. 10/748,423 :
Atty. Dkt. No.: 4041A-000012 :

This decision is in response to the "PETITION UNDER 37 C.F.R. § 1.181(f)" filed August 17, 2004, to accord the above-identified application a filing date of December 30, 2003.

The application was filed December 30, 2003. The Notice of Incomplete Nonprovisional Application ("Notice") mailed August 5, 2004 by the Office of Initial Patent Examination notified applicant that the application had not been accorded a filing date because the application was deposited without drawings in accordance with 35 USC 113 (first sentence).

Petitioner herein argues that the application as deposited included 6 sheets of formal drawings. Petitioner has included as proof of mailing and proof of receipt of the 6 sheets of formal drawings a return postcard date stamped by the Office on December 30, 2003. A copy of 6 sheets of formal drawings purportedly filed with the application on December 30, 2003 was also supplied.

The original 6 sheets of formal drawings submitted with the application papers have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of December 30, 2003 is GRANTED and the Notice is WITHDRAWN.

Since the 6 sheets of formal drawings cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter. A refund to deposit account No. 08-0750 has been requested from the Finance Office, Refund Section.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 30, 2003.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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CHALKER FLORES, LLP
2711 LBJ FRWY
Suite 1036
DALLAS TX 75234

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OFFICE OF PETITIONS

In re Application of	:	
ROE	:	
Application No. 10/748,432	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. BHCS:1006RCE	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 17, 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 driver's license with Inventor Charles Rider Roe's date of birth (8/7/37), demonstrating that he is 65 years of age or more. Accordingly, the above-identified application has been accorded "special" status.

A petition fee is not required and will be refunded by Treasury Check in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

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

The application is being forwarded to the Technology Center Art Unit 1614 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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OCT 11 2005

Wyatt, Gerber & O'Rourke L.L.P.
99 Park Avenue
New York, NY 10016

In re application of	:	**DECISION ON PETITION**
Harold S. Friedman, et al	:	**TO MAKE SPECIAL**
Application No. 10/748,440	:	**(APPLICANT'S AGE)**
Filed: December 30, 2003	:	
For: ELEVATOR CAB DESIGN		

This is a decision on the petition submitted on January 3, 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 Harold S. Friedman 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
(571) 272-6619

RAR/dcg: 10/3/05

United States
Patent And
Trademark Office

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

PETITION DECISION

04/20/04

Ann-Louise Kerner, PH.D.
Hale & Dorr
60 State Street
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/748450 received on 04/01/04 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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SEP 21 2006

CHALKER FLORES, LLP
2711 LBJ FRWY
Suite 1036
DALLAS TX 75234

In re Application of	:
Charles r. Roe	:
Serial No.: 10/748,495	: PETITION TO MAKE SPECIAL
Filed: December 30, 2003	:
Attorney Docket No.: HBCS:1007RCE	:

This is in response to the petition filed July 17, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number, 571-273-8300.

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

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

In re Application of	:	
KOO, et al.	:	
Application No. 10/748,525	:	DECISION ON PETITION
Filed: December 29, 2003	:	TO WITHDRAW
Attorney Docket No. **21058/0206735-US0**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

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

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER LLP** has been revoked by the assignee of the patent application on June 16, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DARBY & DARBY PC**
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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CLIENT 21058
C/O DARBY & DARBY, PC
P.O. BOX 770
NEW YORK, NY 10008-0770

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OFFICE OF PETITIONS

In re Application of	:	
Tae-Woong KOO, et al.	:	
Application No. 10/748,525	:	DECISION ON PETITION TO
Filed: December 29, 2003	:	WITHDRAW FROM RECORD
Attorney Docket No. **043395-0377942**	:	

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 13, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **DARBY & DARBY, PC** has been revoked by the assignee of the patent application on June 4, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: **PILLSBURY WINTHROP SHAW PITTMAN, LLP**
P.O. BOX 10500
MCLEAN, VA 22102

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130

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OFFICE OF PETITIONS

In re Application of	:	
Andrew BERLIN, et al	:	
Application No. 10/748,526	:	DECISION ON PETITION
Filed: December 29, 2003	:	TO WITHDRAW
Attorney Docket No. 21058/0206800-US0	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 6, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Morrison & Foerster LLP has been revoked by the assignee of the patent application on June 9, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed April 23, 2007 that requires a reply by the applicant.

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

April Wise
Petitions Examiner
Office of Petitions

cc: RAJ S. DAVE, PH.D
DARBY & DARBY, P.C.
1500 K STREET, N.W.
WASHINGTON, D.C. 2005-1714

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/748,526	12/29/2003	Andrew Berlin	21058/0206800-US0

CONFIRMATION NO. 8526

OC000000024600425

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/09/2007.

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

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/748,526	12/29/2003	Andrew Berlin	21058/0206800-US0

CONFIRMATION NO. 8526

OC000000024600444

7278
DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

Date Mailed: 06/29/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/09/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Diane Goodwyn

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/748,526	12/29/2003	Andrew Berlin	21058/0206800-US0

CONFIRMATION NO. 8526

OC000000024600425

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/09/2007.

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

Diane Gordon

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

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HUSCH BLACKWELL SANDERS LLP
190 CARONDELET PLAZA, SUITE 600
ST. LOUIS, MO 63105-3441

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OFFICE OF PETITIONS

In re Application of

Rickey L. **FANDEL**
Application No. 10/748,542
Filed: December 30, 2003
Attorney Docket No. **470920-002**

DECISION ON PETITION TO WITHDRAW FROM RECORD UNDER 37 CFR 1.36(b)

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 12, 2008.

The request is **APPROVED**.

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

All future communications from the Office will be directed to the sole named signing inventor at the address below until otherwise properly notified by the applicant.

There is an outstanding non-final office action mailed September 16, 2008 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: **RICKEY L. FANDEL**
1936 OAK RIDGE LANE
PRINCETON, IL 61356

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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 :
Russell E. Blette et al :
Application No. 10/748,568 :
Filed: December 30, 2003 :
Attorney Docket No. 59374US002 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 4, 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 March 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 3752 for processing of the request for continued examination under 37 CFR 1.114.

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

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

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SCHMEISER OLSEN & WATTS
22 CENTURY HILL DRIVE – SUITE 302
LATHAM, NY 12110

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OFFICE OF PETITIONS

In re Application of	:	
Arnold P. Nerenberg	:	
Application No. 10/748,615	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. NERE-3815	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 5, 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 copy of Inventor Arnold P. Nerenberg's birth certificate showing that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 1623 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 030705

DEAN A. CRAIN, P.S.
400 – 112TH AVENUE NE
SUITE 140
BELLEVUE, WA 98004

APR - 5 2005

In re Application of:	:	
POWELL et al.	:	
Serial No.: 10/748,618	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: December 30, 2003	:	
Attorney Docket No.: **BAYM 101**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed February 10, 2005.

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

The request meets all the above stated requirements. The request was signed by Dean A. Craine, on behalf of himself and the attorney/agents associated with customer number 28009.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Mircea Michael Bayer, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MIRCEA MICHAEL BAYER
101 BENNINGTON HILLS COURT
WEST HENRIETTA, NY 14586

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ADVANCE MATERIALS PRODUCTS, INC.
1890 GEORGETOWN ROAD
HUDSON, OH 44236

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OFFICE OF PETITIONS

In re Application of
Moxson et al. :
Application No. 10/748,619 :
Filing Date: December 27, 2003 :
For: FULLY-DENSE DISCONTINUOUSLY-REINFORCED TITANIUM MATRIX COMPOSITES AND METHOD FOR MANUFACTURING THE SAME

Decision on Petition

This is a decision on the petition filed March 8, 2005, under 37 CFR 1.181 to withdraw the holding of abandonment of 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. 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." If petitioners file a petition to revive under 37 CFR 1.137(a) or 1.137(b), the cover letter should be entitled accordingly. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application was filed December 27, 2003.

The application indicated all correspondence should be mailed to:

ADMA Products, Inc.
8180 Boyle Parkway
Twinsburg, OH 44087

The filing fee due for the application was $385. Petitioner only submitted $370.

Petitioners recorded an assignment on March 10, 2004. Petitioners indicated all correspondence related to the assignment should be mailed to:

ADMA Products, Inc.
Vladimir S. Moxson, President
8180 Boyle Parkway
Twinsburg, OH 44087

A Notice to File Missing Parts was mailed to the address of record on April 13, 2004. The Notice stated petitioner owed an additional $15 for the filing fee and $65 for the surcharge required when a filing fee is paid in full on a date after the filing date for the application. The Notice set an extendable period for reply of two (2) months from the mail date of the Notice.

Petitioners failed to reply to the Notice to File Missing Parts. As a result, the application became abandoned on midnight of June 13, 2004.

Petitioners have supplied a copy of a letter allegedly mailed on September 8, 2004, requesting assignment division change its address for the application to:

1890 Georgetown Road
Hudson, OH 44236

The letter was mailed to an improper address. On September 8, 2004, the correct mailing address for Patent and Trademark Office was:

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

The address on the letter was *never* a correct address for the Patent and Trademark Office. The letter to the Office was addressed to:

Ms. Diane Russele, Paralegal
U.S. Patent and Trademark Office
Assignment Division
Box Assignments, CG-4
1213 Jefferson Davis HWY
Suite 320
Washington, DC 20231

The address above is a combination of the physical address for the USPTO and the mailing address. The address instructed the USPS to deliver the mail to "1213 Jefferson Davis HWY, Suite 320" which was an address located in Arlington, Virginia. However, the letter stated the address was located in Washington, DC. Office records fail to indicate receipt of the September 8, 2004 letter.

It is noted that the September 8, 2004 change of correspondence address is signed by Dr. Vladimir S. Moxson, President of ADMA Products, Inc.. The required 373(b) statement did not accompany the change of correspondence address.

A Notice of Abandonment was mailed to the "Boyle Parkway" address on January 10, 2005. Although the Notice of Abandonment was mailed to the old address, petitioners appear to have received the Notice on or before January 30, 2005.

The instant petition was filed March 8, 2005.

Petitioners have not alleged a request to change the correspondence address was filed on or before April 13, 2004. Therefore, the Office properly mailed the Notice to File Missing Parts to the then-current correspondence address of record on April 13, 2004.

Petitioners state,

> [W]e did not receive [the Notice] mailed on 04/13/2004. This Notice to File Missing Parts was received by our request only 01/27/05.

Petitioners have stated that the April 13, 2004 Notice was mailed to the "old address." As stated above, the "Boyle Parkway" address was the correspondence address of record when the April 13, 2004 Notice was mailed.. Put simply, the September 8, 2004 flawed change of correspondence address was filed after the April 13, 2004 Notice was mailed.

A review of the record indicates no irregularity in the mailing of the April 13, 2004 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because it does not meet requirements 1 and 2 above. In addition, petitioners must provide a statement for the record that ADMA Products, Inc.'s address was the "Boyle Parkway" address on April 13, 2004, when the Notice was mailed.

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The petition is dismissed and the application remains abandoned.

Petitioners are informed that on December 8, 2004, the basic filing fee increased by $10.00. Therefore, petitioners owe an additional $10.00. This amount must be submitted with any follow-up petition.

If petitioners are unable to provide the required evidence to prove non-receipt and obtain a withdrawal of the holding of abandonment, petitioners may wish to consider filing a petition to revive under 37 CFR 1.137(a) – the unavoidable standard – or 37 CFR 1.137(b) – the unintentional standard.

Please keep in mind that a delay caused by the failure on the part of an applicant to provide the Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995). A change of address must be made in a conspicuous manner. The Office will not change the correspondence address of record based on the fact that an address on a check or on letterhead is different from the correspondence address of record. A specific request by a proper party must be submitted.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply ($10.00 balance due on the filing fee), the required petition fee ($ 750.00 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form PTO/SB/64 is enclosed for petitioners' convenience.

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 the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: blank form PTO/SB/64- PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

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

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

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 as (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ADVANCE MATERIALS PRODUCTS, INC.
1890 GEORGETOWN ROAD
HUDSON, OH 44236

COPY MAILED

OCT 19 2006

OFFICE OF PETITIONS

In re Application of
Moxson et al. :
Application No. 10/748,619 : Decision on Petition
Filing Date: December 27, 2003 :
For: FULLY-DENSE DISCONTINUOUSLY-REINFORCED TITANIUM MATRIX COMPOSITES AND METHOD FOR MANUFACTURING THE SAME

This is a decision on the petition filed August 2, 2006 (certificate of mailing date July 27, 2006), under 37 CFR 1.137(b) 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. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." . This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A Notice to File Missing Parts was mailed to the address of record on April 13, 2004. The Notice stated petitioner owed an additional $15 for the filing fee and $65 for the surcharge required when a filing fee is paid in full on a date after the filing date for the application. The Notice set an extendable period for reply of two (2) months from the mail date of the Notice.

Petitioners failed to reply to the Notice to File Missing Parts. As a result, the application became abandoned on midnight of June 13, 2004.

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

This petition lacks items (1) and (2).

Regarding (1), a review of Office records indicates that the Office did not receive a check for the $10.00 balance owed from the fees set in the April 13, 2004 Notice.

Regarding (2), a review of Office records indicates that the Office did not receive a check for the $750.00 petition fee.

The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B).

Petitioners are urged to submit the $750.00 petition fee and the $10.00 balance owed from the fees set in the April 13, 2004 Notice.

The petition is dismissed and the application remains abandoned.

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 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ADVANCE MATERIALS PRODUCTS, INC.
1890 GEORGETOWN ROAD
HUDSON, OH 44236

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DEC 1 8 2006
OFFICE OF PETITIONS

In re Application of
Moxson et al. :
Application No. 10/748,619 : Decision on Petition
Filing Date: December 27, 2003 :
For: FULLY-DENSE DISCONTINUOUSLY-REINFORCED TITANIUM MATRIX COMPOSITES AND METHOD FOR MANUFACTURING THE SAME

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

The petition is **granted.**

A Notice to File Missing Parts was mailed to the address of record on April 13, 2004. The Notice stated petitioner owed an additional $15 for the filing fee and $65 for the surcharge required when a filing fee is paid in full on a date after the filing date for the application. The Notice set an extendable period for reply of two (2) months from the mail date of the Notice. Petitioners failed to reply to the Notice to File Missing Parts. As a result, the application became abandoned on midnight of June 13, 2004.

Applicants have submitted a proper reply to the April 13, 2004 Notice, an acceptable statement of the unintentional nature of the delay in responding to the April 13, 2004 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted

After the mailing of this decision, the file will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication 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

COMMISSIONER FOR PATENTS
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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AUG 08 2005

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Frank Neely	:	
Application No. 10/748,621	:	
Filed: December 30, 2003	:	
Attorney Docket Number: VTN	:	
568 CIP1	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed June 15, 2005.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (hereinafter "Notice"), mailed May 6, 2004. The Notice required the basic filing fee and an executed oath or declaration and a late filing fee oath or declaration surcharge. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned July 7, 2004. A Notice of Abandonment was mailed January 10, 2005.

Applicant files the instant petition, executed oath/declaration and the appropriate fees. Accordingly, the petition is granted.

The application file is being referred to the Office of Initial Patent Examination for continued processing in due course.

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

Derek L. Woods
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

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Randall J. Macbeth	: DECISION ON REQUEST FOR
Patent Number	: 7581003	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/748,675	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1092** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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JUN 2 9 2006
OFFICE OF PETITIONS

In re Application of	:	
Harris et al.	:	DECISION ON PETITION
Application No. 10/748,678	:	TO WITHDRAW
Filed: December 31, 2003	:	FROM RECORD
Attorney Docket No. 3350-123	:	

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, 2005.

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

A review of the file record indicates that the power of attorney to the attorneys associated with Customer Number 20457 has been revoked by the assignee of the entire interest 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 continue to be directed to the first below-listed address until otherwise notified by applicant.

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

David Bucci
Petitions Examiner
Office of Petitions

cc:

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

MR. HANS DREYER
DIRECTOR, INTELLECTUAL PROPERTY (LEGAL DEPT.)
CHECKFREE CORPORATION
6000 PERIMETER DRIVE
DUBLIN, OH 43017-3233

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

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

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SEP 20 2004

OFFICE OF PETITIONS

In re Application of Brunner et al. Application No. 10/748,708 Filed: December 31, 2003 Attorney Docket No.: 1866.0360004/PEG/CMB	:	NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 (entitled "Statement Under 37 C.F.R. § 1.28(c)(2) for Payment of Deficiency Owed"), filed August 31, 2004.

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.

The instant request included an itemization and payment of the deficiency in payment of the statutory basic filing fee and the surcharge for late filing of the declaration.

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

Payment of the deficiency has been treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

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
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PATENT DOCKET CLERK
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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SEP 03 2008

OFFICE OF PETITIONS

In re Application of

SHAPIRO, Craig et al.
Application No. 10/748,710
Filed: December 30, 2003
Attorney Docket No. **27167-000**

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 02, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark Montague on behalf of all attorneys of record who are associated with customer No. 32137. All attorneys/agents associated with the Customer Number 32137 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **CRAIG SHAPIRO**
676 C COEUR DE ROYALE
CREVE COEUR MO 63141

cc: **BCD REWARDS, LLC.**
817 NEWCASTLE DRIVE
ST. LOUIS MO 63132

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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OCT 10 2006

OFFICE OF PETITIONS

DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

In re Application of	:
Thomas, et al.	: DECISION ON PETITION
Application No. 10/748,720	:
Filed: December 30, 2003	:
Docket No.: UTSD:703USD1	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed August 11, 2006.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a proper reply to the non-final Office action, mailed September 23, 2005, which set a three month statutory period of time for reply. Notice of Abandonment was mailed May 22, 2006.

Petitioners assert that a reply to the Office action in the form of a Notice of Appeal was timely submitted December 21, 2005, and have submitted as proof of submission and receipt of the reply purportedly filed December 21, 2005 a postcard date stamped December 27, 2005. The reply bears a certificate of mailing date of December 21, 2005 in accordance with 37 CFR 1.8.

Petitioners' arguments and supporting documentation have been carefully considered and support petitioner's conclusion that a reply to the Office action was timely submitted.

In view thereof, the Notice of Abandonment mailed May 22, 2006 is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

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 is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Paper No.

Steven L. Highlander
FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue
Suite 2400
Austin TX 78701

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OCT 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Thomas et al.	:	
Application No. 10/748,720	:	DECISION ON APPLICATION
Filed: December 30, 2003	:	FOR
Atty Docket No. UTSD:703USC1	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed April 29, 2008. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to one hundred nineteen (119) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is sixty-five (65) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On April 3, 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 April 29, 2008, applicants timely submitted an application for patent term adjustment (with required fee)[1]. Applicants dispute the period of reduction of

[1] PALM records indicate that the Issue Fee payment was received on June 25, 2008.

231 days entered for applicant delay in responding to the Office action mailed September 23, 2005. Applicants point to the fact that by decision mailed October 10, 2006, the Office determined that a reply was timely submitted on December 27, 2005. Applicants conclude that in view thereof a period of reduction of 4 days, not 231 days, should have been entered.

The record supports a conclusion that any patent granted on this application is subject to a terminal disclaimer.

A review of the application history reveals that no response to the Office action mailed September 23, 2005 was considered timely filed by the Office and the application became abandoned. Applicants were advised of the abandonment by notice mailed May 22, 2006. In response, on August 11, 2006, applicants filed a petition to withdraw the holding of abandonment.

Preliminarily, it is noted that the petition to withdraw the holding of abandonment was filed more than two months from the mailing date of a notice of abandonment. Thus, a period of reduction should have been entered for applicant delay within the meaning of 37 CFR 1.704(c)(4). A period of reduction of 20 days is being entered (July 23 - August 11, 2006).

By decision mailed October 10, 2006, the petition was granted on the basis that applicants had shown that they timely responded to the Office action on December 27, 2005. The filing of a response on December 27, 2005 to the Office action mailed September 23, 2005 was outside the three-month period set forth in 37 CFR 1.704(b). In view thereof, it is concluded that applicants did fail to engage in reasonable efforts to conclude processing or examination of the application by delaying in replying to the Office action. The period of reduction, as agreed by applicants for this delay, is 4 days.

Further, on petition, it was established that the response filed December 27, 2005 (and lost by the Office) included an amendment and a notice of appeal. The resubmission of a copy of the notice of appeal on petition filed August 11, 2006 was not applicant delay. Entry of a period of reduction of 231 days was this filing was not warranted.

In view thereof, the period of reduction of 231 days is being removed and a period of reduction of 4 days is being entered.

A review of the application record further reveals that an additional period of reduction of 34 days should have been entered for applicant delay. The reply filed May 25, 2005 was incomplete. As stated in MPEP 2732:

> 37 CFR 1.704(c)(7) establishes submission of a reply having an omission (37 CFR 1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Submitting a reply having an omission requires the Office to issue an action under 37 CFR 1.135(c) and await and process the applicant's reply to the action under 37 CFR 1.135(c) before the initial reply (as corrected) can be treated on its merits. In addition, 37 CFR 1.704(c)(7) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

In this instance, applicants filed a response to the non-final Office action on May 25, 2005. However, the response did not include the required terminal disclaimer. On June 28, 2005, applicants filed the terminal disclaimer. Pursuant to 37 CFR 1.704(c)(7), a period of reduction of 34 days is being entered for the period beginning on the day after the date the reply having an omission was filed, May 26, 2005, and ending on the date that the reply or other paper correcting the omission was filed, June 28, 2005.

The 125 days entered for Office delay and 2 days entered for applicant delay are not in dispute.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is sixty-five (65) days (125 days of Office delay - 60 (20 + 4 + 34 + 2) days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management so that a patent can be issued. The patent term adjustment indicated on the patent (as shown on the Issue

Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PALM Screen

Day : Friday
Date: 10/17/2008

PALM INTRANET

Time: 13:21:04

PTA Calculations for Application: 10/748720			
Application Filing Date:	12/30/2003	PTO Delay (PTO):	125
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	233
Post-Issue Petitions:	0	Total PTA (days):	65
PTO Delay Adjustment:	173		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
97	10/17/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		34	
96	10/17/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
95	10/17/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		20	
94	10/17/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	231		
84	04/03/2008	MAIL NOTICE OF ALLOWANCE			
83	03/31/2008	ISSUE REVISION COMPLETED			
82	03/31/2008	DOCUMENT VERIFICATION			
81	03/31/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
80	03/31/2008	EXAMINER'S AMENDMENT COMMUNICATION			
79	03/31/2008	NOTICE OF ALLOWABILITY			
74	01/23/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
73	01/18/2008	DATE FORWARDED TO EXAMINER			
72	01/09/2008	RESPONSE AFTER EX PARTE QUAYLE ACTION			
71	12/13/2007	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)	125		64
70	12/10/2007	EX PARTE QUAYLE ACTION			
69	12/11/2007	MAIL NOTICE OF RESCINDED ABANDONMENT			
66	09/19/2007	APPEAL BRIEF REVIEW COMPLETE			
65	09/19/2007	DATE FORWARDED TO EXAMINER			
64	04/10/2007	APPEAL BRIEF FILED			
63	04/10/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
62	08/28/2007	CASE DOCKETED TO EXAMINER IN GAU			
59	07/12/2007	DATE FORWARDED TO EXAMINER			
58	08/11/2006	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			

57	08/11/2006	NOTICE OF APPEAL FILED		231	44
56	07/12/2007	NOTICE OF RESCINDED ABANDONMENT IN TCS			
55	07/11/2007	CASE DOCKETED TO EXAMINER IN GAU			
54	04/23/2007	CORRESPONDENCE ADDRESS CHANGE			
53	04/23/2007	CORRESPONDENCE ADDRESS CHANGE			
51	10/10/2006	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
50	08/11/2006	PETITION ENTERED			
49	05/22/2006	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
48	05/15/2006	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
44	09/23/2005	MAIL NON-FINAL REJECTION			
43	09/19/2005	NON-FINAL REJECTION			
42	07/15/2005	PARALEGAL TD ACCEPTED			
41	06/28/2005	TERMINAL DISCLAIMER FILED			
40	07/12/2005	DATE FORWARDED TO EXAMINER			
39	06/28/2005	FEE PAYMENT RECORDED (FEES FILED SEPARATELY E.G. NOT WITH ORIGINAL PAPERS, ETC).			
38	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
37.7	05/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	35
37	05/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	06/08/2005	DATE FORWARDED TO EXAMINER			
35	05/25/2005	RESPONSE AFTER NON-FINAL ACTION		2	33
34	06/02/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
33	02/23/2005	MAIL NON-FINAL REJECTION			
32	02/22/2005	NON-FINAL REJECTION			
31	11/22/2004	PRELIMINARY AMENDMENT			
30	11/22/2004	WORKFLOW INCOMING AMENDMENT IFW			
29	10/25/2004	CASE DOCKETED TO EXAMINER IN GAU			
28	03/18/2004	REFERENCE CAPTURE ON IDS			
27	09/28/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
26.7	03/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

26	03/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	12/30/2003	PRELIMINARY AMENDMENT			
24	09/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
23	09/02/2004	APPLICATION RETURN FROM OIPE			
22	09/02/2004	APPLICATION RETURN TO OIPE			
21	09/02/2004	APPLICATION RETURN FROM OIPE			
20	09/02/2004	APPLICATION IS NOW COMPLETE			
19	09/02/2004	APPLICATION RETURN TO OIPE			
18	09/02/2004	APPLICATION RETURN FROM OIPE			
17	09/02/2004	APPLICATION IS NOW COMPLETE			
16	07/29/2004	ADDITIONAL APPLICATION FILING FEES			
15	07/29/2004	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
14	08/05/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
13	05/25/2004	SEQUENCE ERRORS			
11	05/20/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
10	05/19/2004	APPLICATION RETURN TO OIPE			
9	05/19/2004	APPLICATION RETURN FROM OIPE			
8	05/19/2004	APPLICATION RETURN TO OIPE			
7	05/19/2004	APPLICATION DISPATCHED FROM OIPE			
6	05/20/2004	APPLICATION IS NOW COMPLETE			
5	03/09/2004	CLEARED BY L&R (LARS)			
4	02/26/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	02/26/2004	CASE CLASSIFIED BY OIPE			
2	01/17/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/30/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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OFFICE OF PETITIONS

MICHAEL K. LINDSEY
GAVRILOVICH, DODD & LINDSEY, LLP
3303 N. SHOWDOWN PL.
TUCSON, AZ 85749

In re Application of
Christopher Wilson, et al.
Application No. 10/748,723
Filed: December 30, 2003
Attorney Docket No. 07942.0005.CPUS03

ON PETITION

This is a decision in response to the petition, filed May 11 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 November 2, 2005. 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 amendment; (2) the petition fee of $750.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2141 for consideration of the amendment filed May 11, 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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Allen, Dyer, Doppelt, Milbrath & Gilchrist - RIM
255 S. Orange Avenue
Suite 1401
Orlando, FL 32801

Mail Date: 05/20/2010

Applicant	: Christopher Robert Dale Wilson	: DECISION ON REQUEST FOR
Patent Number	: 7640293	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/748,723	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **335** 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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PILLSBURY WINTHROP SHAW PITTMAN LLP
P O BOX 10500
McLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Mark Kroon et al	:	
Application No. 10/748,751	:	DECISION GRANTING PETITION
Filed: December 31, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 081468-0307474	:	

This is a decision on the petition, filed March 23, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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) 272-3218.

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 Information Disclosure Statement.

Frances Hicks

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), 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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DANIELS DANIELS & VERDONIK, P.A.
SUITE 200 GENERATION PLAZA
1822 N.C. HIGHWAY 54 EAST
DURHAM, NC 27713

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JUL 16 2004

OFFICE OF PETITIONS

In re Application of	:	
Wagner, et al.	:	
Application No. 10/748,753	:	ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 1301-026	:	

This is a decision on the papers styled, "Petition to Accept Drawings 8B and 8C - As Originally Filed on December 30, 2003 - And to Grant Filing Date of December 30, 2003," filed on May 25, 2004, which has been treated as a Petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of December 30, 2003, including Figures 8B and 8C, as described in the specification.

The application was filed on December 30, 2003. However, on May 7, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts Of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figures 8B and 8C, as described in the specification appear to have been omitted.

In response, on May 25, 2004, the instant petition and a two (2) pages of drawings that include Figures 8B and 8C, as described in the specification, were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of twelve (12) sheets of drawings on December 30, 2003.

A review of the application file indicates the presence of twelve (12) sheets of drawings filed on December 30, 2003. These sheets include Figures 8B and 8C.

As the omitted Figures filed December 30, 2003 have been found in the application file, the petition is granted.

The $130.00 petition will be refunded by Treasury Check.

This application will be returned to OIPE for further processing with a filing date of December 30, 2003, including all Figures as described in the specification.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 7/15/04

2 Serial/Patent # 10/748,753

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition	IFW	5/25/04	$130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

✓ Treasury Check

Credit Deposit A/C #:

9 [ ][ ] -- [ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

PTO error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E. Tannouse TITLE: Pat. Atty.

SIGNATURE: [signature] PHONE: 306-9200

OFFICE: 4700

****

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APPROVED: [signature] DATE: 7/16/04

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Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of :
D. Russell Plueger :
Application No. 10/748,761 :DECISION ON PETITION
Filed: December 30, 2003 : 37 CFR 1.137(b)
Attorney Docket No. D-3090 :

This is a decision on the petition, filed November 8, 2007, 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 June 30, 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 Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth the projected publication date of March 6, 2008 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on October 17, 2007. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, as the publication fee is now due, the $300 fee therefor will be charged to petitioner's deposit account as authorized. 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).

This application is being referred to the Office of Data Management to await a reply to the Notice of Allowance and Fee(s) Due mailed October 17, 2007. Failure to timely pay the issue fee will again result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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
10/748,761	12/30/2003	D. Russell Pflueger	QMI-3090

CONFIRMATION NO. 2723

23410
Vista IP Law Group LLP
2040 MAIN STREET, 9TH FLOOR
IRVINE, CA 92614

NONPUBLICATION RESCISSION LETTER

OC000000026996336

Date Mailed: 11/29/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 03/06/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

Silicon Valley Patent Group LLP
18805 Cox Avenue
Suite 220
Saratoga CA 95070

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OFFICE OF DATA MANAGEMENT

In re Application of	:	**DECISION ON PETITION**
Weidong Yang et al	:	
Application No. 10/748,829	:	
Filed: 12/29/2003	:	
Attorney Docket No. **NAN066 US**	:	

This is a decision on the Petition to the Director under 37 C.F.R. 1.181 which is being treated as a Petition to Withdraw Holding of Abandonment under 37 C.F.R 1.81 (a), received in the United States Patent and Trademark Office (USPTO) February 2, 2009.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue fee and Publication fee as required by the Notice of Allowance, mailed October 21, 2008 which set forth a three (3) month statutory period for reply. The Notice of Abandonment was mailed on February 6, 2009.

Petitioner states that the issue fee transmittal and payment were timely transmitted via facsimile on January 16, 2009. Petitioner submitted a copy of the original submission, a copy of Auto-Reply Facsimile Transmission identifying the present application and a statement to the satisfaction of the Director that transmission of the facsimile did occur on January 16, 2009.

US Patent and Trademark Office records support the receipt of a facsimile for this application which included a transmittal form and the upper portion of the PART B FEE(S) TRANSMITTAL. It is clear that applicant intended to pay the issue fee with this transmission.

In view of the foregoing, the holding of abandonment for failure to timely submit the issue fee is hereby withdrawn and the application is restored to pending status.

A Petition to Withdraw the Holding of Abandonment under 37C.F.R. 1.181(a) does not require the payment of a Petition Fee. Therefore, the $810.00 fee will be refunded to Deposit Account 502263.

The application will be forwarded to the Publications Branch for processing.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Data Management at 571-272-4200.

Kimberly Terrell, Manager
Office of Data Management
Publications Branch

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/20/04

Ann-Louise Kerner, PH.D.
Hale & Dorr
60 State Street
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/748831 received on 04/01/04 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

AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

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APR 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Koudas et al.	:	
Application No. 10/748,832	:	DECISION ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. ATT-105AUS (ATT/2002-0450)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2163 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: PATTERSON & SHERIDAN, LLP
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

Thomas P. Liniak
LINIAK, BERENATO & WHITE
Suite 240
6550 Rock Spring Drive
Bethesda, MD 20817

MAILED

MAR 1 4 2006

TECHNOLOGY CENTER 2100

In re Application of:
Gallupe et al.
Application No. 10/748,841
Filed: December 31, 2003
For: SWIMMING POOL AND SPA HEATER CONTROL SYSTEM AND METHOD

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed January 5, 2006.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. **The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others**. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. э 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. э 402.06. 37 C.F.R. э 1.36 **further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent**.

The request is signed by Thomas P. Liniak alone and does not contain a clear indication that Mr. Liniak is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

JM

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

07/30/04

Richard E. Gamache
Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/748848 received on 01/29/04 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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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P O BOX 10500
McLEAN, VA 22102

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MAR 3 0 2006

OFFICE OF PETITIONS

In re Application of	:
John Alan Lawton	:
Application No. 10/748,850	: DECISION ON PETITION
Filed: December 31, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 102456-40307482	:

This is in response to the communication, filed on November 4, 2005, which is being treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application Nos. 10/301,859; 09/919,997; and 09/113,271, as set forth in the concurrently filed Application Data Sheet (ADS).

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 applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). While a claim for priority was made to the above-noted, prior-filed nonprovisional applications in an ADS on filing, the ADS did not state the relationship (i.e., continuation, division or continuation-in-part) of the prior-filed nonprovisional applications as required by 37 CFR 1.78(a)(2)(i). Therefore, this is appropriately a petition under 37 CFR 1.78(a)(3) and has been so treated.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an ADS , 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 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that 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 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 applications, accompanies this decision on petition.

As authorized, the $1,370 fee required under 37 CFR 1.17(t) will be charged to petitioner's deposit account.

It is noted that the ADS requests that correspondence concerning this application be directed to Customer Number 43569. However, a request to change the correspondence address must be submitted by an attorney duly appointed to prosecute the application. There is no indication that Mr. Paul L. Sharer was ever given a power of attorney to prosecute the above-identified application. Accordingly, if it is desired to have correspondence directed to the above Customer Number, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to Mr. Sharer, 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) 272-3218. 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 1752 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Paul L. Sharer
Mayer Brown Rowe & Maw LLP
Intellectual Property Group
1909 K Street NW
Washington, DC 20006

ATTACHMENT: Corrected Filing Receipt

C:\Documents and Settings\FHicks\My Documents\470\Mar9\748850.wpd

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

07/30/04

Richard E. Gamache
Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/748861 received on 01/29/04 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Errol Murray Collins :
Application No. 10/748,879 : ON PETITION
Filed: December 29, 2003 :
Attorney Docket No. 089389-000000US :

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**.

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

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MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
LAW DEPT
8000 WEST SUNRISE BLVD
FT LAUDERDALE FL 33322

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MAR 1 7 2006

OFFICE OF PETITIONS

In re Application of :
Tupler et al. :
Application No. 10/748,881 : ON PETITION
Filed: December 30, 2003 :
Attorney Docket Number: CE11883JSW

This is a decision on the petition under 37 CFR 1.137(b), filed January 9, 2006, to revive the above-identified application.

The petition is **dismissed.**

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of June 29, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 30, 2005. This decision precedes the mailing of a Notice of Abandonment.

The petition has **not** been reviewed on the merits because the petition provided has not been signed.

Pursuant to 37 CFR 1.33, amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of

the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** 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 facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY SECTION
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8000 WEST SUNRISE BLVD
FT LAUDERDALE FL 33322

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OFFICE OF PETITIONS

In re Application of :
Tupler et al. :
Application No. 10/748,881 : ON PETITION
Filed: December 30, 2003 :
Attorney Docket Number: CE11883JSW

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 24, 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 June 29, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 30, 2005. This decision precedes the mailing of a Notice of Abandonment. A petition filed under 37 CFR 1.137(b) was dismissed on March 17, 2006.

This petition is hereby **GRANTED**.

A three (3) month extension of time was requested with the instant petition. However, pursuant to 37 CFR 1.136 (a), an extension of time 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) Petitioner is ineligible for any extensions of time, nor is an extension of time fee required to revive the application. Accordingly, $1,020.00 will be credited to deposit account no. 50-2117.

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

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DEC 15 2005

Technology Center 2100

In re Application of:
K. KASAKO et al
Application No. 10/748,886
Filed: December 30, 2003
For: REMOTE STORAGE DISK CONTROL DEVICE AND METHOD FOR CONTROLLING THE SAME

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on July 18, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of July 18, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070621

DATE : June 21, 2007

TO SPE OF : ART UNIT 2187

SUBJECT : Request for Certificate of Correction on Patent No.: 7219201

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

DONALD SPARKS
SUPERVISORY PATENT EXAMINER

SPE: Donald Sparks **Art Unit** 2187

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Goodwin Procter, LLP
599 Lexington Avenue
New York, NY 10022

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OFFICE OF PETITIONS

In re Application of	:	
Jurgen Engel, et. al.	:	
Application No. 10/748,887	:	ON PETITION
Filed: July 30, 2002	:	
Attorney Docket No. 103832-512-NP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply to the non-final Office action mailed November 24, 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 amendment and specification; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of $1,020 for a three (3) month extension of time, filed July 27, 2005. 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 fee 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 referred to Technology Center Art Unit 1646, for review of the amendment and specification filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrew Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FRANK CHAU, ESQ.
F. CHAU & ASSOCIATES, LLP
1900 HEMPSTEAD TURNPIKE
EAST MEADOW NY 11554

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AUG 0 5 2004

OFFICE OF PETITIONS

In re Application of
Myoung-Ho Jung et al.
Application No. 10/748,903
Filed: December 30, 2003
Attorney Docket No. 8836-221(IE13077US)

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed July 6, 2004, which is being treated under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of April 30, 2004.

The application was filed on December 30, 2003 without drawings.[1] Accordingly, on April 30, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on July 6, 2004, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented Petitioners request that the application, without drawings, be accorded a filing date of December 30, 2003.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] Since the application was filed with at least one claim directed to a process or method, the application should have been treated as an application for which a drawing is not necessary and the Office of Initial Patent Examination should have mailed a "Notice Of Omitted Item(s)." See MPEP § 601.01(f).

In view of the above, the Notice mailed April 30, 2004, is hereby withdrawn. The application is accorded a filing date of December 30, 2003, without drawings.

---

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01(f).

The petition is granted. The petition fee in the amount of $130.00 has been credited back to deposit account no.50-0679.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 30, 2003, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497. Please note that effective September 24, 2004, the telephone number for the Office of Petitions will be changed to (571) 272-3232.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JOHN G. POSA
GIFFORD, DRASS, GROH, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
280 N. OLD WOODWARD AVE., SUITE 400
BIRMINGHAM, MI 48009-5394

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MAR 0 8 2004

OFFICE OF PETITIONS

In re Application of
Herrmann
Application No. 10/748,910
Filed: December 22, 2003
Attorney Docket No. BCR-10102/29
For: CUSHION GRIPS FOR SPRAY BOTTLE

: DECISION GRANTING
: PETITION

This is a decision on the petition filed February 4, 2004 under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of December 22, 2003, rather than December 24, 2003.

Petitioner requests the earlier filing date on the basis that the application was deposited in United States Postal Service (USPS) Express Mail service on December 22, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of a USPS Pickup Service Statement showing Express Mail Label No. EV340745473US was picked up on December 22, 2003. The same Express Mail label number is found on the original application papers. In addition, petitioner has provided a letter from Charles Thomas, Jr. a USPS Customer Service Manager in Ann Arbor, MI that states the subject Express Mail package was picked up on December 22, 2003.

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) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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.

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."

The petition filed February 4, 2004 is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is **GRANTED**. No petition fee has been or will be charged in connection with this matter.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **December 22, 2003** and the mailing of a corrected filing receipt.

Thereafter, the application will be forwarded to Technology Center Art Unit 3676 for examination in due course.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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	: David Carroll Challener	: DECISION ON REQUEST FOR
Patent Number	: 7620997	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/748,919	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1724** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Alexandria, VA 22313-1450
www.uspto.gov

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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JUL 03 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Shoen Davis et al	:	
Application No. 10/748,941	:	DECISION ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 131713-1	:	

This is a decision on the petition filed February 8, 2007 which is being treated under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed February 8, 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 the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to satisfy item (1) above. In this regard, the amendment submitted with the petition references the prior-filed applications by the patent number rather than by the application number. *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. [Emphasis supplied.]

Note also CFR 1.78(a)(2)(i), which states, in relevant part:

> Except for a continued prosecution application filed under § 1.53(d), 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. [Emphasis supplied.]

Accordingly, a proper amendment complying with the provisions of 37 CFR 1.121 and satisfying the requirements of 37 CFR 1.78(a)(2)(i) must be submitted, along with a renewed petition under 37 CFR 1.78(a)(3).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

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APR 07 2008
OFFICE OF PETITIONS

In re Application of	:
Michael Shoen Davis et al	:
Application No. 10/748,941	: DECISION ON PETITION
Filed: December 30, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 131713-1	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 6, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the

benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1794 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/748,941	12/30/2003	1794	1768	131713-1	46	3

CONFIRMATION NO. 1911

CORRECTED FILING RECEIPT

OC000000029271349

23413
CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Date Mailed: 04/07/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Michael Shoen Davis, Mt. Vernon, IN;
Martin Lindway, Waxhaw, NC;
Michael T. Roland, Evansville, IN;
Joseph Anthony Suriano, Clifton Park, NY;
Hua Wang, Clifton Park, NY;
Vicki Herzl Watkins, Alplaus, NY;
Georgios S. Zafiris, Evansville, IN;
Hongyi Zhou, Niskayuna, NY;

Power of Attorney: The patent practitioners associated with Customer Number 023413

Domestic Priority data as claimed by applicant

This application is a CIP of 10/310,295 12/05/2002 PAT 6,689,474
which is a CIP of 09/908,396 07/18/2001 PAT 6,610,409
which is a CIP of 09/368,706 08/05/1999 PAT 6,306,507
which claims benefit of 60/134,692 05/18/1999

Foreign Applications

If Required, Foreign Filing License Granted: 04/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/748,941**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Formable thermoplastic multi-layer laminate, a formed multi-layer laminate, an article, and a method of making an article

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY.
SUNNYVALE, CA 94085-4040

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JAN 1 2 2009

OFFICE OF PETITIONS

In re Application of
Gregor K. Frey et al
Application No. 10/748,951
Filed: December 30, 2003
Attorney Docket No. 6570P046

ON PETITION

This is a decision on the petition filed December 1, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application is abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed April 23, 2008, which set a statutory period for reply of three (3) months. The Request for Continued Examination (RCE) filed with the petition on December 1, 2008 is improper since it was received after the three (3) months statutory period. Accordingly, the above-identified application became abandoned on July 24, 2008.

Since the application is abandoned for failure to submit the Issue fee and Publication fee, payment of there fees are required. With the authorization to charge, the Office is charging the $1510 Issue fee and $300 Publication fee to the petitioner's deposit account.

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.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to Mail Stop Issue Fee, within ONE MONTH from the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

In re Application of	:	
Gregor K. Frey et al	:	
Application No. 10/748,951	:	DECISION GRANTING PETITION
Filed: December 30, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6570P046	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 23, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 1, 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 request for refund of the petition fee paid on December 1, 2008, is dismissed because the petition to revive under 37 CFR 1.137(b) was granted on January 12, 2009.

MPEP 711.03(c) states that:

[T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong. 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

---

[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.*

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2451 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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SNELL & WILMER LLP
1920 MAIN STREET
SUITE 1200
IRVINE CA 92614-7230

MAIL

SEP 3 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Mary R. Rice
Application No. 10/748,953
Filed: December 30, 2003
For: **METHOD AND SYSTEM FOR ARRANGING A PAINT COLOR DISPLAY**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 15, 2004 under 37 CFR §1.102(d) to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) 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
(3) 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. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

Applicant's submission is deficient in regard to item (2) above in that it fails to include a clear statement 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**" as required.

Applicant's statement that "applicant and her attorneys have conducted a comparison and obtained samples of the infringing products" is insufficient to satisfy this requirement; inasmuch it is unclear if a rigid comparison with respect to the claims was made; or rather if it was some type of product to product comparison.

Applicant's submission is also deficient in regard to item (3) in that copies of the US patent references and publications have not been submitted.

Accordingly, the Petition is **DENIED**.

The application file will await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision and comply with items (2) and (3) above. No extensions of time will be permitted.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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JAN 2 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SNELL & WILMER LLP
1920 MAIN STREET
SUITE 1200
IRVINE CA 92614-7230

In re Application of	:	
Mary R. Rice	:	
Application No. 10/748,953	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO MAKE SPECIAL
For: METHOD AND SYSTEM FOR ARRANGING A PAINT COLOR DISPLAY	:	

This is a decision on the Request for Reconsideration of the Petition to Make Special Under the Actual Infringement Provision filed October 15, 2004, treated as pursuant to MPEP §708.02, section II (Infringement).

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) 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
(3) 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. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The supplemental statement filed October 15, 2004, taken together with the previously filed petition (filed July 13, 2004) 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6854591
Issue Date: February 15,2005
Application No. 10748957
Filed: December 30,2003
Attorney Docket No. 1574(AMF)

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 29,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 29,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6854591	2005-02-15	10748957	2003-12-30	10124-1580

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/George M. Thomas/	Date (YYYY-MM-DD)	2010-04-29
Name	George M. Thomas	Registration Number	22260

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

THOMAS, KAYDEN, HORSTEMEYER
& RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

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OFFICE OF PETITIONS

In re Application of

Chen, et al.

Application No. 10/748,963

Filed: December 29, 2003

Attorney Docket No. 250606-1040

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed January 2, 2007.

The petition is **granted**.

This application was held abandoned July 4, 2006, after no reply was received to the non-final Office action mailed April 3, 2006. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on July 4, 2006. A Notice of Abandonment was mailed November 2, 2006. The instant petition was filed on January 2, 2007. Petitioner maintains that the notice of April 3, 2006, was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology 2800, GAU 2819 for further processing that may include remailing the non-final Office action and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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COOLEY GODWARD, LLP
3000 EL CAMINO REAL
5 PALO ALTO SQUARE
PALO ALTO CA 94306

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JUN 0 5 2006
OFFICE OF PETITIONS

In re Application of	:	
Ramamurthy et al.	:	DECISION ON PETITION
Application No. 10/748,970	:	TO WITHDRAW
Filed: December 30, 2003	:	FROM RECORD
Attorney Docket No. 8815	:	

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 **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by William S. Galliani on behalf of all attorneys of record who are associated with Customer Number 23419.

All attorneys/agents associated with Customer Number 23419 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor at the first below-listed address until otherwise properly notified by the applicants.

The application became abandoned for failure to timely reply to the Office action mailed November 3, 2005.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

SHANKAR RAMAMURTHY
12786 OAK FARMS DRIVE
HERNDON, VA 20171

EPIANCE, INC.
307 HERNDON PARKWAY
SUITE 205
HERNDON, VA 20170

SNELL & WILMER, LLP
ONE ARIZONA CENTER
400 E. VAN BUREN
PHOENIX, AZ 85004-2202

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE, NJ 07095

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OFFICE OF PETITIONS

In re Application of	:	
Thomas SCHWALB	:	
Application No. 10/749,003	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO WITHDRAW
Attorney Docket No. **449-124**	:	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 02, 2009.

The request is **moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to GIBSON & DERNIER LLP has been revoked by the assignee of the patent application on November 25, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **KAPLAN GILMAN & PERGAMENT LLP**
1480 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

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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SQUIRE, SANDERS & DEMPSEY L.L.P
600 HANSEN WAY
PALO ALTO CA 94304-1043

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OFFICE OF PETITIONS

Applicant: Kim et al.
Appl. No.: 10/749,015
Filing Date: November 29, 2003
Title: FLUX CORED WIRE FOR GAS SHIELD ARC WELDING
Attorney Docket No.: 61282.00010
Pub. No.: US 2005/0077277 A1
Pub. Date: April 14, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on May 23, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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FROM DIRECTORS OFFICE

JAN 13 2005

TECHNOLOGY CENTER 3600

C. W. Alworth
Alworth Law & Engineering
505 Cumberland Road
Tyler, Texas 75703-9325

In re application of	:	**DECISION ON PETITION**
Michael A. Burleson	:	**TO MAKE SPECIAL**
Application No. 10/749,040	:	**(INFRINGEMENT)**
Filed: December 30, 2003	:	
For: SAFETY SWIVEL SEATBACK FOR RECREATIONAL VEHICLES		

This is a decision on the petition under 37 C.F.R §1.102(d) filed July 30, 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 July 30, 2004 lacks requirements 2(A)-2(C) above. While an alleged copy of applicant's device is set forth in the request to Make Special there is no support that the device in question actually is on the market. Additionally, no rigid comparison of the claims and the alleged infringing device has been made by applicant nor has a thorough search of the prior art been conducted with copies of the closely related art provided to the office. In view of these deficiencies, 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.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/jwk: 1/4/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVE BURNS
27 CARSON ROAD
BOX 522
WOODACRE, CA 94973

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MAR 1 9 2007

OFFICE OF PETITIONS

In re Application of Dave Burns Application No. 10/749,065 Filed: December 31, 2003 For: SAFETY RESTRAINT FOR A VEHICLE	: : : : :	ON PÉTITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed April 29, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on June 30, 2004. A Notice of Abandonment was mailed on January 10, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of April 29, 2004 is accepted as being unintentionally delayed.

This application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Steven Vosen
1563 Solano Avenue, #206
Berkley, CA 94707

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OFFICE OF PETITIONS

In re Application of	:	
Dave Burns	:	
Application No. 10/749,065	:	DECISION ON PETITION
Filed: December 31, 2003	:	TO WITHDRAW
Attorney Docket No. BUR.001US0	:	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 14, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Steven R. Vosen on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Dave Burns at the address indicated below.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Dave Burns**
1608 San Anseimo Ave.
San Anseimo, CA 94960

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
10/749,065	12/31/2003	Dave Burns	BUR.001US0

CONFIRMATION NO. 7372

POWER OF ATTORNEY NOTICE

40280
STEVEN VOSEN
1563 SOLANO AVENUE #206
BERKELEY, CA 94707

OC000000033096386

Date Mailed: 11/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/14/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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GRIMES & BATTERSBY, LLP
488 MAIN AVENUE, THIRD FLOOR
NORWALK CT 06851

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OFFICE OF PETITIONS

In re Application of	:	
Virvo	:	
Application No. 10/749,070	:	DECISION ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. BAD017USU	:	
For: PRESENTATION DISPLAY		

This is a decision on the petition captioned, "PETITION RO REVIVE ABANDONED APPLICATION FOR PATENT," filed January 22, 2007 (certificate of mailing date January 18, 2007). The petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

This application was held abandoned due to applicant's alleged failure to timely reply to the non-final Office action mailed May 23, 2006, which set an extendable three month period for reply. The Office contended that this application became abandoned on August 23, 2006. A Notice of Abandonment was mailed on November 29, 2006.

Petitioner asserts that a request for a three month extension of time with required fee and an amendment were timely mailed on certificate of mailing date November 22, 2006 and actually received in the Office on November 30, 2006.

The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records shows that the $510.00 check for the three month extension of time was negotiated on November 30, 2006.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly

addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The transmittal letter bears a proper certificate of mailing, dated November 22, 2006, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the attorney signing the certificate, James G. Coplit, had reasonable basis to expect that the correspondence would be mailed on November 22, 2006. Attorney Coplit has attested to the fact that the correspondence was in fact mailed on that date.

The amendment and three month extension of time fee were received in the Office on November 30, 2006. The certificate of mailing date on the transmittal letter is November 22, 2006. Therefore, the reply was timely filed. The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the November 29, 2006 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 3611 for consideration of the amendment filed on November 30, 2006 (certificate of mailing date November 22, 2006).

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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HOFFMAN WARNICK LLC
75 STATE STREET
14TH FLOOR
ALBANY, NY 12207

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OFFICE OF PETITIONS

In re Application of
Alexander Virvo
Application No. 10/749,070
Filed: December 30, 2003
Attorney Docket No. VLAS-0006

ON PETITION

This is a decision in response to the petition, filed July 23, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 3, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 4, 2009. A Notice of Abandonment was mailed on April 15, 2009. On July 23, 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 amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3611 for appropriate action by the Examiner in the normal course of business on the amendment received July 23, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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CANTOR COLBURN LLP - SABIC (LEXAN/CYCOLOY)
20 Church Street
22nd Floor
Hartford CT 06103

In re Application of	:	
Dean et al.	:	
Application No. 10/749,071	:	DECISION ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 145581-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 28, 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 Rejection mailed, May 3, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on August 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 an Amendment After Non-Final, (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 1791 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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FEB 09 2009

OFFICE OF PETITIONS

Kamran Arghavanifard / Albert Kahen
998 S. Robertson Blvd. # 103 A
Los Angeles CA 90035

In re Application of	:	
Kamran Arghavanifard, et al.	:	
Application No. 10/749,091	:	DECISION ON PETITION
Filed: December 31, 2003	:	
Attorney Docket No. N/A	:	

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 DISMISSED.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1620. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given to the petition until the required fee is received.

In addition to receiving the petition to revive, the Office received a Change of Correspondence Address on October 31, 2008. Since the Change of Correspondence Address was only signed by one of the two joint inventors, it cannot be accepted. Therefore, a Change of Correspondence Address with the signatures of all inventors must be submitted. See MPEP 601.03 and 37CFR 1.33(b) for more information.

A copy of this decision will be mailed to the address on the 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) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Denise Williams at (571) 272-8930.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Kamran Arghavanifard / Albert Kahen
8900 Burton Way #104
Beverly Hills, CA 90211

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

DALY, CROWLEY, MOFFORD & DURKEE, LLP
SUITE 301A
354A TURNPIKE STREET
CANTON MA 02021-2714

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JAN 2 3 2007

OFFICE OF PETITIONS

NOTICE

In re Patent No. 7,067,909 :
Issue Date: June 27, 2006 :
Application No. 10/749,096 :
Filed: December 30, 2003 :
Attorney Docket No.: MIT-136DUS :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DALY, CROWLEY, MOFFORD & DURKEE, LLP
SUITE 301A
354A TURNPIKE STREET
CANTON MA 02021-2714

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OFFICE OF PETITIONS

In re Patent No. 7,067,909	:	
Issue Date: June 27, 2006	:	
Application No. 10/749,096	:	NOTICE
Filed: December 30, 2003	:	
Attorney Docket No.: MIT-136DUS	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed July 31, 2007.

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.

Deposit account no. 50-0845 will be charged $1,085.00.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
BOISE, ID 83701-0877

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OFFICE OF PETITIONS

In re Application of	:	
Glenn, et al.	:	
Application No. 10/749,112	:	ON PETITION
Filed: December 29, 2003	:	
Attorney Docket No. WHTM140	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed May 27, 2005. Accordingly, this application became abandoned on August 28, 2005.

The file is being forwarded to Technology Center 3600 for further examination *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/20/04

Ann-Louise Kerner, PH.D.
Hale & Dorr
60 State Street
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/749118 received on 04/01/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/20/04

Ann-Louise Kerner, PH.D.
Hale & Dorr
60 State Street
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/749119 received on 04/01/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/20/04

Ann-Louise Kerner, PH.D.
Hale & Dorr
60 State Street
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/749120 received on 04/01/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/20/04

Ann-Louise Kerner, PH.D.
Hale & Dorr
60 State Street
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/749122 received on 04/01/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

GRAYBEAL JACKSON LLP
400 - 108TH AVENUE NE
SUITE 700
BELLEVUE, WA 98004

Mail Date: 04/21/2010

Applicant	: Marco Ronchi	: DECISION ON REQUEST FOR
Patent Number	: 7583122	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/749,127	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1543** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARK J. PANDISCIO
PANDISCIO & PANDISCIO
470 TOTTEN POND ROAD
WALTHAM, MA 02154

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DEC 1 8 2006
OFFICE OF PETITIONS

In re Patent No. 7,125,193	:	
Issue Date: October 24, 2006	:	
Application No. 10/749,136	:	NOTICE
Filed: December 30, 2003	:	
Attorney Docket No. HAYES-2 CON	:	

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.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7018399
Issue Date: March 28,2006
Application No. 10749140
Filed: December 29,2003
Attorney Docket No. 009005

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 26,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 26,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7018399	2006-03-28	10749140	2003-12-29	014218US8

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Todd A. Holmbo/	Date (YYYY-MM-DD)	2010-05-26
Name	Todd A. Holmbo	Registration Number	42665

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAYER BROWN ROWE & MAW LLP
INTELLECTUAL PROPERTY GROUP
1909 K STREET, N.W.
WASHINGTON, D.C. 20006-1101

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OFFICE OF PETITIONS

In re Application of	:	
Ho Young Kim et al	:	
Application No. 10/749,145	:	DECISION DISMISSING PETITION
Filed: December 31, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 123034-05224793	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 9, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

In this case, the petition was not received in the Office of Petitions for consideration until January 31, 2007. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $395 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petition 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 20 2004

DCM

In re Application of Swindford, et al. Serial Number: 10/749,173 Filed: December 30, 2003 For: ROASTER WITH HANGING AND INTERLOCKING RACK	:	PETITION UNDER MPEP 708.02 VIII

This is in response to the Petition to Make Special filed January 7, 2004, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII of the MPEP and 37 CRF 1.102(d) have been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

R. Blake Johnston
PIPER RUDNICK
P. O. BOX 64807
CHICAGO, IL 60664-0807

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 05162005

John Patrick Ward
Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Green et al :
Application No. 10/749,184 : ON PETITION
Filed: December 30, 2003 :
Attorney Docket No. 42P15139 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The instant application became abandoned for failure to reply to the notice to file missing parts mailed on April 30, 2004, which set a shortened statutory period for reply of two months. As no reply was received and no extensions of time obtained, this application became abandoned on June 30, 2004. A notice of Abandonment was mailed on January 10, 2005.

This application is being referred to the Office of Initial Patent Examination for consideration of the reply filed on February 7, 2005.

Any questions concerning this matter may be directed to Gene Kim at (571)272-6052, or in his absence, the undersigned at (571)272-3217.

Brian Hearn
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. None

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Ragae Ghabrial et al. :
Application No. 10/749,192 : DECISION ON PETITION
Filing Date: December 31, 2003 : UNDER 37 C.F.R. § 1.137(B)
Attorney Docket Number: LFS5029 :
Title: METHOD FOR INCORPORATION :
OF BIOACTIVES INTO A POROUS :
HYDROPHOBIC POLYMER SCAFFOLD :

This is a decision on the petition under 37 CFR §1.137(b)[1], filed April 25, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed March 10, 2004, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 11, 2004. A notice of abandonment was mailed on June 9, 2005.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

With the present petition, Petitioner has submitted the petition fee, a statement which is being construed as the proper statement of unintentional delay, a declaration, and the fee associated with the late submission of the same. Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b).

As such, the petition is **GRANTED**.

The Office of Initial Patent Examination will be notified of this decision.

It is noted that Petitioner has further filed a terminal disclaimer and the associated fee, when a terminal disclaimer is not required[2]. As such, the terminal disclaimer filed April 25, 2006, will not be entered. The terminal disclaimer fee has not been charged to Petitioner's deposit account.

Petitioner has also submitted a four-month extension of time. An extension of time under 37 C.F.R. §1.136 must be filed prior to the expiration of the maximum extendable period for reply[3]. Accordingly, since the $ 1,590 extension of time submitted with the petition on April 25, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to Petitioner's deposit account.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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2 See 37 C.F.R. §1.137(d)(1).
3 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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May 3, 2006

Jessica C. Stahnke
MORGAN, LEWIS & BOCKIUS, LLP
One Market, Spear Street Tower
San Francisco, CA 94105

Patent No.: 6935682 B2
Application No.: 10/749210
Inventor(s): **Sang-Do Park**
Issued: August 30, 2005
Title: **SINKING SEAT FOR A VEHICLE**

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.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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JUL 24 2008

In re Patent No. 6,935,682	:	
Issue Date: August 30, 2005	:	
Application No. 10/749,210	:	ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 060945-0180US	:	

This is a decision on the petition filed September 6, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of an 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 Carl Friedman at (571) 272-6842. 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.

Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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MORGAN, LEWIS & BOCKIUS LLP
ONE MARKET, SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

In re Patent No. 6,979,055	:	
Issue Date: December 27, 2005	:	
Application No. 10/749,226	:	ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 11038-148-999	:	

This is a decision in response to the communication filed April 19, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* Official Gazette of June 22, 2004

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MORGAN LEWIS & BOCKIUS LLP
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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AUG 2 4 2006

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In re Application of	:	
Dong-Wuk Choi	:	
Application No. 10/749,248	:	ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 11038-136-999	:	

This is a decision on the petition filed on January 23, 2006, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed on April 29, 2005. Applicant filed an Amendment on October 31, 2005, made timely by obtaining a three month extension of time and including a Certificate of Mailing dated October 28, 2005. However, on November 9, 2005, the Office mailed an Advisory Action, informing that the Amendment would not be entered because it failed to place the application in condition for allowance. Accordingly, the application became abandoned on October 30, 2005. A Notice of Abandonment was mailed on December 14, 2005.

With the instant petition, applicant paid the petition fee, submitted the required reply in the form of an RCE, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 3676 for consideration of the RCE, filed January 23, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON TX 77267-4412

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DEC 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Butler et al. :
Application No. 10/749,259 : DECISION ON PETITION
Filed: December 31, 2003 :
Attorney Docket No. COS-890 :

This is a decision on the petition filed February 11, 2009 to withdraw the holding of abandonment pursuant to 37 CFR 1.181(no fee).

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

This above-identified application was held abandoned for failure to timely file a response after the Board of Patent Appeals and Interferences rendered a decision on the request for rehearing or reconsideration of the decision. The decision on the request for rehearing was mailed on December 23, 2008. A Notice of Abandonment was mailed on January 14, 2009.

Petitioner argues since the Board issued a decision on the Request for Reconsideration on December 23, 2008, the application is not abandoned until two months after the decision February 23, 2009.

Pursuant to 37 CFR §1.304, the time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences. If a request for rehearing or reconsideration of the decision is filed within the time period provided under § 41.52(a), § 41.79(a), or §41.127(d) of this title, the time for filing an appeal or commencing a civil action shall expire two months after action on the request. As such the Notice of Abandonment was mailed prematurely. However, further review of the record shows that a reply was not submitted prior to February 23, 2009.[1]

[1] It is noted that pursuant to 37 CFR §1.304(b) since February 23, 2009 fell on Saturday a timely reply could have been submitted on February 25, 2009.

Thus, the application is now abandoned.

It is further noted that a petition for revival of the application would not be appropriate since applicants sought rehearing. "By proceeding in this manner, the appellant waives his or her right to further prosecution before the examiner." See. In re Greenfield, 40 F.2d 775, 5 USPQ 474 (CCPA 1930).

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 concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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FEB 19 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jin-Tae OH et al. :
Application No. 10/749,262 :
Filed: December 31, 2003 :
Attorney Docket No. 3364P161 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 2008, 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 March 6, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on June 7, 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 Request for Continued Examination, and the $405 filing fee; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of March 6, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Felix O. Figueroa at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2134 for appropriate action on the concurrently filed Request for Continued Examination.

David A. Bucci
Petitions Examiner
Office of Petitions

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JUL 18 2005

In re Application of		:	
Lisa Leighton		:	
Serial No.	10/749,263	:	DECISION ON PETITION
Filed:	December 31, 2003	:	
For:	UNIVERSAL GAS VALVE KEY	:	

This is a decision on the petition to make special filed on December 28, 2004. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3723 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Frederick R. Schmidt

Frederick R. Schmidt, Director
Technology Center 3700

Kit M. Stetina
Stetina Brunda Garred & Brucker
75 Enterprise, Suite 250
Aliso Viejo, CA 92656

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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

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OFFICE OF PETITIONS

In re Application of :
Rhodes, et al. :
Application No. 10/749,268 : ON PETITION
Filed: December 31, 2003 :
Attorney Docket No. H0005610-1100.1221101 :
For: SYSTEMS AND METHODS FOR POSITION DETECTION

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2006, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely pay the issue fee and publication fee and return a complete Part B- Fee Transmittal/ PTOL-85B or its equivalent within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed July 21, 2005. Accordingly, this application became abandoned on October 22, 2005. A Notice of Abandonment was mailed on November 30, 2005.

A grantable petition pursuant to 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. The Commissioner may

require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above.

Petitioner has not submitted a completed Part B- Fee(s) Transmittal/ PTOL-85B or its equivalent. This item is required.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
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Post Office Box 1450
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By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 – ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: JOHN G. SHUDY, JR.
CROMPTON SEAGER TUFTE
1221 NICOLLET AVE., SUITE 800
MINNEAPOLIS, MN 55403

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OFFICE OF PETITIONS

In re Application of :
Rhodes, et al. :
Application No. 10/749,268 :
Filed: December 31, 2003 :
Attorney Docket No. H0005610-1100.1221101 :
For: SYSTEMS AND METHODS FOR POSITION DETECTION

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee and return a complete Part B- Fee Transmittal/ PTOL-85B or its equivalent within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed July 21, 2005. Accordingly, this application became abandoned on October 22, 2005. A Notice of Abandonment was mailed on November 30, 2005.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the July 21, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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KENYON & KENYON
SUITE 600
333 W. SAN CARLOS STREET
SAN JOSE CA 95110-2711

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OFFICE OF PETITIONS

In re Application of Hammarlund et al. Application No. 10/749,271 Filed: 30 December, 2003 Attorney Docket No. 2207/17039	:	ON PETITION
In re Application of Sodani et al. Application No. 10/749,272 Filed: 30 December, 2003 Attorney Docket No. 2207/17040	:	

This is a decision on the petition filed in Application No. 10/749,271 on 6 July, 2004, which is being treated as a petition under 37 CFR 1.182 to correct the files of the above-identified applications.

Applicants request that the drawings filed in Application No. 10/749,271 on 30 December, 2003, be transferred to the file of Application No. 10/749,272, and that the drawings filed in Application No. 10/749,272 on 30 December, 2003, be transferred to the file of Application No. 10/749,271, and that the applications be accorded filing dates of 30 December, 2003, with the drawings as part of the original disclosures.

Applicants' attorney, Shawn O'Dowd, explained that the specification for Application No. 10/749,271 were inadvertently filed with the drawings for Application No. 10/749,272, and that the specification for Application No. 10/749,272 was inadvertently filed with the drawings for Application No. 10/749,271.

The Office notes that the specification for Application No. 10/749,271 references Figures 1, 2, 3, 4, 5A, 5B, 6A, 6B, 6C, 7A,

7B, 7C, 8A, 8A, 8B, 8C, and 9, while drawing Figures 1, 2, 3, 4, and 5 were filed therewith. Conversely, the specification for Application No. 10/749,271 references Figures 1, 2, 3, 4, and 5, while drawing Figures 1, 2, 3, 4, 5A, 5B, 6A, 6B, 7A, 7B, 7C, 8A, 8B, 8C, and 9 were filed therewith.

It is obvious that neither application was individually complete on the date of deposit, *i.e.*, on 30 December, 2003, since the drawings described in the specifications were not received with the respective specifications. Additionally, it is noted that the application transmittal sheet for Application No. 10/749,271 references the filing of five (5) sheets of drawings and the application transmittal sheet for Application No. 10/749,272 references the filing of (7) sheets of drawings. However, in light of the contents of the brief descriptions of the drawings contained in the specifications of the respective applications, the evidence is persuasive that the drawings were misfiled.

Further, since the drawings were in fact present in the USPTO on 30 December, 2003, the applications may be accorded filing dates of 30 December, 2003, on petition under 37 CFR 1.182.

The five (5) sheets of drawings filed on 30 December, 2003, in Application No. 10/749,271 will be removed and transferred to Application No. 10/749,272.

The seven (7) sheets of drawings filed on 30 December, 2003, in Application No. 10/749,272 will be removed and transferred to Application No. 10/749,271.

Application No. 10/749,271 will be reprocessed with the seven (7) sheets of transferred drawings, containing Figures 1, 2, 3, 4, 5A, 5B, 6A, 6B, 7A, 7B, 7C, 8A, 8B, 8C, and 9 filed on 30 December, 2003.

Application No. 10/749,272 will be reprocessed with the five (5) sheets of transferred drawings, containing Figures 1, 2, 3, 4, and 5 filed on 30 December, 2003.

It is noted that the specification of Application No. 10/749,271 references Figure 6C, while no such figure appears in the drawings. Figure 6C therefore appears to have been omitted from Application No. 10/749,271.

The petition is **granted** to the extent indicated above.

As this petition was necessitated by applicants' filing error, the petition fee will not be refunded.

The address listed on the petition is different than the correspondence address of record. 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.

Application No. 10/749,271 is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of 30 December, 2003, using the seven (7) sheets of drawings containing Figures 1, 2, 3, 4, 5A, 5B, 6A, 6B, 7A, 7B, 7C, 8A, 8B, 8C, and 9 filed on 30 December, 2003.

Application No. 10/749,272 is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of 30 December, 2003, using the five (5) sheets of drawings containing Figures 1, 2, 3, 4, and 5 filed on 30 December, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: KENYON AND KENYON
1500 K ST, N.W., SUITE 700
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of Hammarlund et al. Application No. 10/749,271 Filed: 30 December, 2003 Attorney Docket No. 2207/17039	ON PETITION
In re Application of Sodani et al. Application No. 10/749,272 Filed: 30 December, 2003 Attorney Docket No. 2207/17040	

This is a decision on the petition filed in Application No. 10/749,271 on 6 July, 2004, which is being treated as a petition under 37 CFR 1.182 to correct the files of the above-identified applications.

Applicants request that the drawings filed in Application No. 10/749,271 on 30 December, 2003, be transferred to the file of Application No. 10/749,272, and that the drawings filed in Application No. 10/749,272 on 30 December, 2003, be transferred to the file of Application No. 10/749,271, and that the applications be accorded filing dates of 30 December, 2003, with the drawings as part of the original disclosures.

Applicants' attorney, Shawn O'Dowd, explained that the specification for Application No. 10/749,271 were inadvertently filed with the drawings for Application No. 10/749,272, and that the specification for Application No. 10/749,272 was inadvertently filed with the drawings for Application No. 10/749,271.

The Office notes that the specification for Application No. 10/749,271 references Figures 1, 2, 3, 4, 5A, 5B, 6A, 6B, 6C, 7A,

8/27/04

7B, 7C, 8A, 8A, 8B, 8C, and 9, while drawing Figures 1, 2, 3, 4, and 5 were filed therewith. Conversely, the specification for Application No. 10/749,271 references Figures 1, 2, 3, 4, and 5, while drawing Figures 1, 2, 3, 4, 5A, 5B, 6A, 6B, 7A, 7B, 7C, 8A, 8B, 8C, and 9 were filed therewith.

It is obvious that neither application was individually complete on the date of deposit, *i.e.*, on 30 December, 2003, since the drawings described in the specifications were not received with the respective specifications. Additionally, it is noted that the application transmittal sheet for Application No. 10/749,271 references the filing of five (5) sheets of drawings and the application transmittal sheet for Application No. 10/749,272 references the filing of (7) sheets of drawings. However, in light of the contents of the brief descriptions of the drawings contained in the specifications of the respective applications, the evidence is persuasive that the drawings were misfiled.

Further, since the drawings were in fact present in the USPTO on 30 December, 2003, the applications may be accorded filing dates of 30 December, 2003, on petition under 37 CFR 1.182.

The five (5) sheets of drawings filed on 30 December, 2003, in Application No. 10/749,271 will be removed and transferred to Application No. 10/749,272.

The seven (7) sheets of drawings filed on 30 December, 2003, in Application No. 10/749,272 will be removed and transferred to Application No. 10/749,271.

Application No. 10/749,271 will be reprocessed with the seven (7) sheets of transferred drawings, containing Figures 1, 2, 3, 4, 5A, 5B, 6A, 6B, 7A, 7B, 7C, 8A, 8B, 8C, and 9 filed on 30 December, 2003.

Application No. 10/749,272 will be reprocessed with the five (5) sheets of transferred drawings, containing Figures 1, 2, 3, 4, and 5 filed on 30 December, 2003.

It is noted that the specification of Application No. 10/749,271 references Figure 6C, while no such figure appears in the drawings. Figure 6C therefore appears to have been omitted from Application No. 10/749,271.

The petition is **granted** to the extent indicated above.

As this petition was necessitated by applicants' filing error, the petition fee will not be refunded.

The address listed on the petition is different than the correspondence address of record. 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.

Application No. 10/749,271 is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of 30 December, 2003, using the seven (7) sheets of drawings containing Figures 1, 2, 3, 4, 5A, 5B, 6A, 6B, 7A, 7B, 7C, 8A, 8B, 8C, and 9 filed on 30 December, 2003.

Application No. 10/749,272 is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of 30 December, 2003, using the five (5) sheets of drawings containing Figures 1, 2, 3, 4, and 5 filed on 30 December, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: KENYON AND KENYON
1500 K ST, N.W., SUITE 700
WASHINGTON DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON
SUITE 600
333 W. SAN CARLOS STREET
SAN JOSE, CA 95110-2711

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OCT 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Per H. Hammarlund et al.	:	
Application No. 10/749,271	:	DECISION ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. Intel 2207/17039	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed January 8, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on March 9, 2007. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief, with a fee of $500.00, (2) the petition fee of $1500.00, and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2183 for appropriate action in the normal course of business on the Appeal Brief received September 17, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF THE DIRECTOR
TC 3600

Schneck & Schneck
P.O. Box 2-E Center
San Jose, CA 95109-0005

In re application of
Madeline T. Facer et al.
Application No. 10/749,286
Filed: December 30, 2003
For: CAM ENGAGED, LEVER PROPELLED WHEELCHAIR

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on March 5, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Madeline T. Facer indicating that she is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/vdb: 5/11/04

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MOTOROLA, INC.
INTELLECTUAL PROPERTY
DEPARTMENT (LJC)
600 NORTH US HIGHWAY 45, RM AS437
LIBERTYVILLE, IL 60048

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JUL 13 2004

OFFICE OF PETITIONS

In re Application of
Kotzin
Application No.: 10/749,321
Filing Date: January 2, 2004
Attorney Docket No.: CS10665

ON PETITION

This decision concerns the June 17, 2004 "Petition to Correct Filing Date" which is being properly treated as a petition under 37 CFR 1.10(c).

The petition is **DISMISSED.**

The petition requests a filing date of December 31, 2003, rather than the presently accorded filing date of January 2, 2004, asserting that the application was deposited on December 31, 2003 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" ("Express Mail") service pursuant to the requirements of 37 CFR 1.10.

Under 37 CFR 1.10(c), any person filing correspondence that was received by the USPTO and delivered by the "Express Mail" service may petition the Commissioner if there is a discrepancy between the filing date accorded by the USPTO to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. However, such a petition must include, *inter alia*, **a true copy of the "Express Mail" mailing label indicating the "date-in" or other official notation by the USPS relied upon to show the date of deposit**. The petition lacks such a copy of "Express Mail" mailing label and is thus dismissed.

No petition fee is owed. The $130 petition fee charged to Deposit Account No. 50-2117 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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DEPARTMENT (LJC)
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LIBERTYVILLE, IL 60048

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AUG 03 2004
OFFICE OF PETITIONS

In re Application of	:	
Kotzin	:	
Application No.: 10/749,321	:	ON PETITION
Filing Date: December 31, 2003	:	
Attorney Docket No.: CS10665	:	

This decision concerns the July 27, 2004 "Renewed Petition to Correct Filing Date" which is being properly treated as a renewed petition under 37 CFR 1.10(c).

The petition is **GRANTED.**

The petition requests a filing date of December 31, 2003 rather than the presently accorded filing date of January 2, 2004, on the basis that the application was deposited on December 31, 2003 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" ("Express Mail") service pursuant to the requirements of 37 CFR 1.10.

Accompanying the petition is a copy of printout from the USPS internal tracking record, showing that a package mailed under USPS "Express Mail" mailing label number "EH743680640US" was accepted by the USPS "Express Mail" on December 31, 2003 at 17:01. The same mailing label number is also contained in the original application transmittal which itemizes the application papers being mailed on December 31, 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 31, 2003. The petition is thus granted.

The application file is being returned to the Office of Initial Patent Examination for correcting the filing date to December 31, 2003; for mailing a corrected Filing Receipt reflecting that filing date; and for processing the declaration and replacement drawings submitted on June 17, 2004.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

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SEP 30 2005

OFFICE OF PETITIONS

In re Application of
Glen A. Gordon
Application No. 10/749,324
Filed: December 31, 2003
Attorney Docket No. P3245

DECISION DISMISSING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed August 11, 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 delay in responding is regretted; however, the petition was just recently referred to the Office of Petitions for consideration.

It is noted that the petition was filed by the former attorney and the address given on the petition differs from address of record. Accordingly, a courtesy copy of this decision is being mailed to the address on the petition. All future correspondence regarding this application will be mailed solely to the address of record.

The petition is **DISMISSED**.

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 lacks item (1) above. It is noted that a request under 35 U.S.C. § 122(b)(2)(B)(ii) to rescind the previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was included with the petition on August 11, 2004, and that petitioner states that a Canadian patent application corresponding to the present non-provisional application was inadvertently filed prior to submitting the rescission request. However, the Office cannot make a proper determination of whether or not the application was, in fact, abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) since the filing date of the foreign or international application was not stated.

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; however, no further petition fee is required. The reconsideration request should include a cover letter entitled "Renewed Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f))." This is **not** 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
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: TODD N. HATHAWAY
119 N. COMMERCIAL ST. #620
BELLINGHAM, WA 98225

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

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DEC 20 2005

OFFICE OF PETITIONS

In re Application of :
Glen A. Gordon :
Application No. 10/749,324 :DECISION GRANTING PETITION
Filed: December 31, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 7451-71902-01 :

This is a decision on the renewed petition under 37 CFR 1.137(f), filed October 13, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the 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 nonprovisional application is the subject of an application filed in an eighteen month publication country on December 31, 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 petition is found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center AU 3754.

Sherry D. Brinkley

Sherry D. Brinkley
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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GAZDZINSKI & ASSOCIATES, P.C.
16644 WEST BERNARDO DRIVE
SUITE 201
SAN DIEGO, CA 92127

Mail Date: 04/21/2010

Applicant	: Colin Whitby-Strevens	: DECISION ON REQUEST FOR
Patent Number	: 7581041	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/749,325	: OF WYETH
Filed	: 12/29/2003	:
		:

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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OFFICE OF PETITIONS

In re Application of	:	
Nichani et al.	:	
Application No. 10/749,335	:	ON PETITION
Filed: December 31, 2003	:	
Attorney Docket No. 55910/17	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 23, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This matter is being referred to Technology Center 2600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

WORLD TRADE CENTER EAST
TWO SEAPORT LANE, SUITE 300
BOSTON, MA 02210-2028

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT LAW OFFICE OF LARRY QUERNSEY
P.O. BOX 720247
SAN JOSE, CA 95172-0247

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AUG 22 2008

In re Application of	:	
Manish **SETH**	:	
Application No. 10/749,341	:	DECISION ON PETITION
Filed: December 31, 2003	:	TO WITHDRAW
Attorney Docket No. 60732-300101	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Larry B. Guernsey on behalf of all attorneys of record who are associated with Customer No. 73744.

All attorneys/agents associated with the Customer Number 73744 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor at the address indicated below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MANISH SETH
5366 MANOR STREET,
BURNABY, B.C.
CANADA V5G 1B7

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/22/2010

Applicant	: Sumit Roy	: DECISION ON REQUEST FOR
Patent Number	: 7613223	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/749,343	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1499** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of
John Martin
Application No. 10/794,401
Filed: January 2, 2004
Attorney Docket No. 247342US8

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(b)

This is in response to the petition filed November 22, 2004, under 37 CFR 1.47(b).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on January 2, 2004 without an executed oath or declaration.

Accordingly, on August 9, 2004, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration.

In response, the present petition was filed, accompanied by a request for a two (2) month extension of time.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

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The petition lacks items (2) and (3).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The officer must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[1]

Additionally, the Notice to File Missing Parts requires the payment of a surcharge for the late filing of the oath or declaration. A fee in the amount of $130.00 to cover the late filing surcharge will need to be submitted with the oath or declaration on renewed petition.

With respect to the petition fee, please be advised that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 15-0030 will be charged in the amount of $70.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(g). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] MPEP 409.03(b).

Copied from 10794401 on 01/05/2005

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JAN 06 2005

OFFICE OF PETITIONS

In re Application of
John Martin
Application No. 10/749,401
Filed: January 2, 2004
Attorney Docket No. 247342US8

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(b)

CORRECTED DECISION[1]

This is in response to the petition filed November 22, 2004, under 37 CFR 1.47(b).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on January 2, 2004 without an executed oath or declaration.

Accordingly, on August 9, 2004, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration.

In response, the present petition was filed, accompanied by a request for a two (2) month extension of time.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

[1]This decision replaces the decision mailed December 17, 2004 as the application serial number was incorrect.

(5) proof of proprietary interest, and
(6) proof of irreparable damage.

The petition lacks items (2) and (3).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The officer must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[2]

Additionally, the Notice to File Missing Parts requires the payment of a surcharge for the late filing of the oath or declaration. A fee in the amount of $130.00 to cover the late filing surcharge will need to be submitted with the oath or declaration on renewed petition.

With respect to the petition fee, please be advised that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 15-0030 will be charged in the amount of $70.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(g). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[2] MPEP 409.03(b).

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of
John Martin
Application No. 10/749,401
Filed: January 2, 2004
Attorney Docket No. 247342US8

DECISION ACCORING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the request for reconsideration filed February 11, 2005, under 37 CFR 1.47(b).

The petition is **GRANTED**.

The above-identified application was filed on January 2, 2004 without an executed oath or declaration. Accordingly, on August 9, 2004, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. In response, a petition was filed November 22, 2004, accompanied by a request for a two (2) month extension of time. On January 6, 2005, a corrected decision was mailed dismissing the petition because an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 had not been presented.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

In response to the decision dismissing the petition filed November 22, 2004, an oath or declaration executed by an officer of the Corporation, for the assignee and on behalf of the non-signing inventor has been presented. All requirements under 37 CFR 1.47(b) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center 2131 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JUN 0 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Mattingly, Stanger & Malur, P.C.
1800 Diagonal Rd., Suite 370
Alexandria, Virginia 22314

In re Application of: Honda, et al.
Application No. 10/749,411
Filed: 2 January 2004
For: VIRTUALIZATION CONTROLLER, ACCESS PATH CONTROL METHOD AND COMPUTER SYSTEM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed 11 March 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed 11 March 2005 fails to adequately meet requirement (e) as set forth above. Responsive to requirement (e), applicant must provide a "detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references." Petitioner should ensure that the above discussion is directed to *how the language of each of the independent claims are specifically distinguishable and patentable from the references* provided pursuant to requirement (d) supra.

Applicant's petition fails to discuss the **claimed limitations** with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). The petition summarizes the invention, and then it goes on to "briefly" discuss the prior art references. The discussion furnishes characteristics of each of the identified references, but Petitioner does not point out how the claimed limitations (with the requisite specificity) could be patentable over each reference. Petitioner's discussion merely offers certain claim language at the end of each reference description, and then concludes the treatment of each of the references with the same assertion, that the given prior art "does not teach or suggest one or more of the first, second, third and fourth features of the present invention as described above."

Petitioner must show, with respect to each reference, how the claimed subject matter distinguishes from the prior art in accordance with the requirements of 37 CFR 1.111 (b) and (c). In this case, the petitioner has furnished a description of each of the cited prior art references, but this discussion of each of the references does not detail or particularly point out "how the claimed subject matter is patentable over the references."

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

5/31/05

GO

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MARSHALL GERSTEIN & BORUN LLP
233 S WACKER DR
CHICAGO IL 60606-6357

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OFFICE OF PETITIONS

In re Application of	:	
Sreenivas Subramoney, Richard	:	
Hudson, Mauricio J. Serrano, Ali-	:	
Reza Adl-Tabatabai	:	DECISION REFUSING
Application No. 10/749,425	:	STATUS UNDER § 1.47(a)
Filing Date: December 31, 2003	:	
Attorney Docket No. 30320/17231	:	

This is in response to the "STATEMENT OF FACTS UNDER 37 C.F.R. §1.47(a)," filed September 7, 2004.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 31, 2003, without an executed oath or declaration. Accordingly, on May 3, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts, requiring an executed oath or declaration,

and a surcharge for its late filing. In response, applicants filed the instant petition on September 7, 2004, made timely by obtaining a two month extension of time and including a certificate of mailing dated September 3, 2004. Accompanying the petition was a declaration executed by joint inventors Sreenivas Subramoney, Richard Hudson, and Ali-Reza Adl-Tabatabai, but with the signature block for joint inventor Mauricio J. Serrano left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (1).

As to requirement (1), there has been no showing that non-signing inventor Serrano was presented with the application papers (specification, claims, drawings, oath or declaration). Rather, the petition only establishes that Serrano was forwarded a copy of the declaration and assignment forms. Regarding this, the Manual of Patent Examining Procedure states:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.
>
> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 U.S.P.Q. 80 Comm'r Pat. 1956).

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.[1]

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[1] MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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233 S WACKER DR
CHICAGO IL 60606-6357

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OFFICE OF PETITIONS

In re Application of Sreenivas Subramoney, Richard Hudson, Mauricio J. Serrano, Ali-Reza Adl-Tabatabai Application No. 10/749,425 Filing Date: December 31, 2003 Attorney Docket No. 30320/17231	: : : : : : :	DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a)," filed December 27, 2004 (Certificate of Mailing dated December 22, 2004).

The above-identified application was filed on December 31, 2003, without an executed oath or declaration. Accordingly, on May 3, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts, requiring an executed oath or declaration, and a surcharge for its late filing. In response, applicants filed the a petition under 37 CFR 1.47(a) on September 7, 2004, made timely by obtaining a two month extension of time and including a certificate of mailing dated September 3, 2004. However, the petition was dismissed in a decision mailed on October 26, 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 **moot**. This application does <u>not</u> have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Timothy R. Schulte
Storage Technology Corporation
One StorageTek Drive
Louisville, CO 80028-4309

In re Application of:
SILVEIRA *et al.*
Serial No.: 10/749,427
Filed: October 31, 2003
Attorney Docket No.: **2003-074-DSK**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed on January 23, 2006. The petition has been treated as a petition under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Office action mailed on June 23, 2005. A Notice of Abandonment was mailed on December 28, 2005.

Petitioner asserts that a response was timely filed by facsimile transmission on December 22, 2005. To support this assertion, petitioner has submitted 1) a copy of the response including an amendment, 2) a copy of a certificate under 37 C.F.R. § 1.8(a) showing a date of transmission on December 22, 2005, and 3) a copy of the auto-reply facsimile transmission from the USPTO confirming successful transmission of the response.

A review of the application file reveals that the original response sent via facsimile on December 22, 2005, was not associated with the file at the time of mailing the Notice of Abandonment, but has since been found and matched with the file. As such, the application should not have been held abandoned.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle, Special Programs Examiner, at (571) 272-1594.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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JUN 28 2005

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of
Brian Alan Grove et al.
Application No. 10/749,431 :
Filed: December 30, 2003 :
For: SELLER-CONTROLLED PUBLICATION: OF QUESTION AND ANSWER SETS

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 15, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

10/749,431

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), The statement included in the request, "Discontinuation of attorney client relationship," does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). The attorney may not discontinue the attorney client relationship on his own accord.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/slb: 06/16/05

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P.O. BOX 2938
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
Brian Alan Grove, et al. :
Application No. 10/749,431 :
Filed: December 30, 2003 :
Attorney Docket No. 2043.101US1 :

ON PETITION

This is a decision in response to the petition, filed October 8, 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 failure to reply in a timely manner to the non-final Office action mailed November 8, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 9, 2008. A Notice of Abandonment was mailed on August 8, 2008. On October 8, 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 $1,620; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on October 8, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 3625 for appropriate action by the Examiner in the normal course of business on the amendment received October 8, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Paper No.

John C. Alemanni
Patent Department – 53051
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem, NC 27101

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JUN 0 5 2005

Technology Center 2100

In re Application of:
Steven Lawrence et al.
Application No. 10/749,434
Filed: December 31, 2003
For: METHODS AND SYSTEMS FOR IMPROVING A SEARCH RANKING USING ARTICLE INFORMATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation Under 37 CFR 1.36 and 10.40(c) filed March 10, 2005.

A Power of Attorney Under 37 CFR 1.36 was filed on May 4, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed FENWICK & WEST LLP as the attorneys of record of the instant application. The Power Of Attorney of May 4, 2005, was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by FENWICK & WEST LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

cc: Sabra-Anne R. Trusdale
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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P.O. BOX 14329
RESEARCH TRIANGLE PARK, NC 27709

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of

CHANGE, et al.
Application No. 10/749,437
Filed: December 31, 2003
Attorney Docket No. 4080-130

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 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 Stephen Hultquist on behalf of all attorneys of record who are associated with customer No. 23448. Stephen Hultquist has been withdrawn as attorney or agent of record; all other attorneys Marianne Fuierer, Janet Elliot and Tristan Fuierer remain of record.

The correspondence address of record has been changed as of June 12, 2006 and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Denise Pother
Petitions Examiner
Office of Petitions

cc: **MOORE & VAN ALLEN PLLC**
P.O. BOX 13706
RESEARCH TRIANGLE PARK, NC 27709

cc: **DR. KEWN-JEN CHANG**
ARDENT PHARMACEUTICALS, INC.
104 SIERRA DRIVE
CHAPEL HILL, NC 27514

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PO BOX 1022
MINNEAPOLIS MN 55440-1022

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SEP 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,516,118	
Badros et al.	
Issue Date: April 7, 2009	
Application No. 10/749,440	DECISION ON REQUEST FOR
Filed: December 31, 2003	RECONSIDERATION OF
Attorney Dkt. No. 16113-1101001/GP-167-00	PATENT TERM ADJUSTMENT
Title: Method and System For Assisted Network Browsing	

This is in response to the "Application For Patent Term Adjustment Under 37 C.F.R. §1.705(d)" filed Monday, June 8, 2009. Patentees request that the patent term be adjusted from 588 days to 841 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On April 7, 2009, the above-identified application matured into US Patent No. 7,516,118 with a patent term adjustment of 588 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 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 entitlement to a patent term adjustment of 841 days (232 + 661 reduced by 52 (applicant delay)). Patentees also contend that a reduction of 17 days is required and that the 40-day reduction was made in error.

Consideration first turns to patentees' contentions that periods of reduction for applicant delay are in error. Pursuant to their duty of candor and good faith, patentees disclose that entry of 17-day reduction pursuant to 37 CFR 1.704(c)(8) is required for the submission of a supplemental reply in the form of a Request for Continued Examination (RCE) on August 20, 2007, subsequent to the amendment filed on August 3, 2007. Patentees are incorrect. A review of the record shows that the 17-day reduction is not warranted. As the amendment filed August 3, 2007 was not in compliance with the § 1.113(c), the period for reply to the final rejection mailed on June 6, 2007, continued to run. The proper reply, the RCE was received in the Office on August 20, 2007. As the RCE was filed within the three-month period provided for in § 1.704(b), no period of reduction was entered for applicant delay.

Patentees argue the supplemental response filed on November 17, 2008 warrants a reduction of 2-days pursuant to 37 CFR 1.704(c)(8) not the current reduction of 40-days.

Patentees are advised that any request for reconsideration under 37 CFR 1.705(d) that raises issues that were raised, or could have been raised, in an application for patent term adjustment under 37 CFR 1.705(b) shall be dismissed as untimely as to those issues. As the 40 day reduction contested by patentees could have been raised under 37 CFR 1.705(b), patentees' request for reconsideration of said 40 day reduction is dismissed as untimely.

As such, the total reduction for applicants' delay remains 73 days.

Consideration now turns to patentees' assertion that the Office's calculation of "B delay" for issuance beyond three years from filing is incorrect. Considering the overlap provision, the Office entered 0 days for this period. Patentees maintain that considering the overlap provision, 232 days should have been entered. The Office finds that as of the filing of the request for continued examination (RCE) on August 20, 2007, the application was pending three years and 232 days after its filing date. An entry of a period of adjustment of 661 days was entered for Office delay. At issue is whether patentees should accrue 232 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 661 days

for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 232 days overlap. 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 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 filing date December 31, 2003 until the filing of the RCE on August 20, 2007. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(ii)-(iii)). Prior to the filing of the RCE, 661 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. (No periods of adjustment for Office delay accrued subsequent to the filing of the RCE).

The Office did not delay 661 days and then delay an additional 232 days. Accordingly, 661 days of patent term adjustment for Office delay (not 661 days and 232 days) was properly entered because the entire period of delay of 232 days attributable to the delay under 37 CFR 1.702(b) overlaps with the 661 days attributable to grounds specified in § 1.702(a)(1).

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment pursuant to 37 CFR 1.702(b).

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 588 days (661-73).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Anthony Knight
Supervisor
Office of Petitions

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MAR 16 2010

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,516,118	:
Badros et al.	: DECISION ON REQUEST FOR
Issue Date: April 7, 2009	: RECONSIDERATION OF
Application No. 10/749,440	: PATENT TERM ADJUSTMENT
Filed: December 31, 2003	: AND NOTICE OF INTENT
Attorney Docket No. 16113-	: TO ISSUE CERTIFICATE OF
1101001/GP-167-00	: CORRECTION
Title: METHODS AND SYSTEMS FOR	:
ASSISTED NETWORK BROWSING	:

This is a decision on the petition filed on October 29, 2009, which is being treated as a petition under 1.181 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred twenty (820) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred nineteen (819) 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 January 1, 2007 and ends on August 19, 2007, the day before the RCE was filed, and is 231 days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 819, not 820 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 **eight hundred nineteen (819)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,516,118 B1

DATED : **April 7, 2009** **DRAFT**

INVENTOR(S) : Badros 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 588 days

Delete the phrase "by 588 days" and insert – by 819 days--

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CARRIER BLACKMAN AND ASSOCIATES
24101 NOVI ROAD
SUITE 100
NOVI, MI 48375

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SEP 1 5 2004

OFFICE OF PETITIONS

In re Application of :
Matsuda, et al. :
Application No.: 10/749,459 :
Filed: December 30, 2003 :
Attorney Docket No.: OCA-184-A :

ON PETITION

This is a decision on the petition filed May 18, 2004, to have the above-cited application accorded a filing date of December 26, 2003, rather than the presently accorded filing date of December 30, 2003. The petition will be treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.53.

The petition is **dismissed.**

Petitioner requests that the filing date accorded the application be changed from December 30, 2003, to December 26, 2003. In support thereof, petitioner maintains that human error resulted in the application papers not be deposited with the United States Postal Service Express Mail Service until December 30, 2003, but that it was the intention of petitioner to have the application filed on December 26, 2003. Specifically, petitioner maintains that an employee of petitioner's office became overwhelmed with other assignments—some being the filing of other patent applications—and went on a scheduled vacation and forgot that the above-cited application was not filed with the Patent and Trademark Office. Petitioner argues human error is to be expected and is understandable, but that the client should not be made to suffer for the failings of the employee, therefore; the application should be accorded the filing date that petitioner intended the application to have of December 26, 2003.

Petitioner's arguments have been considered, but are not persuasive. Section 1.53 of Title 37 of the Code of Federal Regulations explains that the filing date of an application for patent is the date on which a specification, at least one claim, and any drawings required are filed in the Patent and Trademark Office. It is also noted that 37 CFR 1.10 indicates that correspondence received by United States Postal Service Express Mail will be considered filed on the date of deposit with the United States Postal Service—with the "date-in" on the Express Mail label being the date of deposit. Petitioner is requesting that the Office waive these requirements and grant this application a filing date on a date when the application was not physically in the Patent and Trademark Office, or the United States Postal Service, or even in route to the Office.

Certainly, human error in the patenting process is understandable and, in some cases, errors caused by such failings are justifiable reasons for granting the remedy requesting. The circumstances explained by petitioner, while unfortunate, do not merit suspension of the rules regarding what is necessary to accord an application a filing date. The attorneys of record and those in their employ have been retained to assist the inventive entity with the prosecution of the application. Implicit in the relationship created between the attorney of record or patent agent and the inventive entity is the understanding that the inventive entity will reap any benefits of the competence of the attorneys of record in the application's prosecution, and will likewise suffer any consequence of the failures of the attorneys of record and their staff in the application's prosecution. Based on the facts offered in the instant petition, it is not believed that justice would not require waiver of the requirements of 37 CFR 1.53 or 37 CFR 1.10 as it would surely be an extraordinary remedy to accord the application a filing date based solely on the date the applicant intended to file the application, notwithstanding the fact that the application was not in route to the Office or with the United States Postal Service on that date.

Further, the requirements of 37 CFR 1.10 and 1.53 are grounded in 35 U.S.C. 21 that mandates that:

> [t]he Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

Absent postal emergencies or emergencies designated by the Director, papers are considered filed when they are deposited with United States Postal Service provided applicant has made use of the certificate of mailing procedures under 37 CFR 1.8 and/or the Express Mail procedures under 37 CFR 1.10. Requirements of the rules that are based in statutory law cannot be suspended or waived pursuant to 37 CFR 1.183, therefore; petitioner requests that the requirements of 37 CFR 1.10 and 1.53 be waived cannot be granted based on the facts presented.

The petition fee of $130.00 will be charged to Deposit Account 50-0744.

The application will be directed to the Office of Initial Patent Examination for further processing with a filing date of December 30, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

Lisa K. Jorgenson, Esq.
STMicroelectronics, Inc.
1310 Electronics Drive
Carrollton TX 75006

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OFFICE OF PETITIONS

In re Application of.	:	
Osvaldo Colavin et al.	:	
Application No. 10/749,472	:	DECISION ON PETITION
Filed: December 31, 2003	:	PURSUANT TO
Attorney Docket No.: 03-LJ-038	:	37 C.F.R. § 1.181
Title: METHOD AND SYSTEM FOR	:	
SUPPORTING SOFTWARE PIPELINING	:	
USING A SHIFTING REGISTER QUEUE	:	

This is a decision on the petition filed April 14, 2008, 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 reply in a timely manner to the non-final Office action, mailed January 8, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on April 9, 2007. A notice of abandonment was mailed on March 13, 2008.

With this petition, Petitioner has asserted that a response was submitted to the Office on April 3, 2007. Petitioner has submitted a copy of this response, along with a paper that was purportedly submitted contemporaneously therewith, and it is noted that it contains a certificate of mailing that is dated April 3, 2007. Moreover, Petitioner has included a copy of the postcard receipt that is associated with this submission, and it

evinces that an "Amendment and Response to Office Action" were received in the Office on April 10, 2007.

The electronic file has been reviewed, and a copy of this submission has not been located. However, the evidence is convincing that this submission was received in the Office on April 10, 2007, and subsequently misplaced.

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 response to the non-final Office action that was submitted concurrently with this petition (originally presented on April 3, 2007) can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

It is noted that although Petitioner is listed as an attorney of record, the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank

Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[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

cc: Munck Butrus Carter, P.C.
Docket Clerk
P.O. Box 802432
Dallas, Texas 75380

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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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OCT 04 2007

OFFICE OF PETITIONS

In re Application of :
Yun-Nam Jang :
Application No. 10/749,495 : DECISION ON PETITION
Filed: December 31, 2003 :
Attorney Docket No. 51876P577 :

This is a decision on the petition, filed January 30, 2007, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within TWO (2) MONTHS from the mail date of this decision and include a cover letter entitled "Renewed Petition Under 37 CFR 1.8(b)." No extensions of time are available under 37 CFR 1.136(a). Note 37 CFR 1.181(f).

This application was held abandoned for failure to timely respond to the Office action of January 11, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before April 11, 2006 or on or before July 11, 2006 with the appropriate extension of time fee. A Notice of Abandonment was mailed on January 12, 2007.

Petitioner states that a timely reply was mailed via certificate of mailing on April 10, 2006. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated April 10, 2006, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in

> accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition fails to satisfy item (3) above. In this regard, the statement under 37 CFR 1.8(b)(3) by Jean Svoboda, the person signing the certificate of mailing shown on the copy of the amendment, attests that "I deposited the **attached Form PTOL-85** under Certificate of Mailing dated April 10, 2006 with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop Amendment address * * * [emphasis supplied]. The statement is unacceptable since it references the mailing of a Form PTOL-85, rather than the amendment for this application. Therefore, the statement is not evidence of the timely mailing of the reply on April 10, 2006 to the outstanding Office action of January 11, 2006. Consequently, the holding of abandonment will not be withdrawn 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

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.8(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

In re Application of	:	
Yun-Nam Jang	:	
Application No.10/749,495	:	DECISION ON PETITION
Filed: December 31, 2003	:	
Attorney Docket No. 51876P577	:	

This is a decision on the renewed petition, filed November 1, 2007, which is being treated as a petition under 37 CFR 1.8(b) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the non-final Office action, mailed January 11, 2006. A notice of abandonment was mailed January 12, 2007 noting applicant's failure to timely file a proper reply to the non-final action.

The instant petition is a renewed petition, the previous petition under 37 CFR 1.8(b) filed January 30, 200 was dismissed in a decision mailed October 4, 2007 for failing to provide a proper statement of personal knowledge under 1.8(b)(3). The renewed petition provides a proper statement referencing an amendment and response.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

This application is being referred to Technology Center Art Unit 2617 for consideration in due course of applicant's amendment as filed with this petition.

David Bucci
Petitions Examiner
Office of Petitions

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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 :
Henry Chung-Hsin Chu, et al. :
Application No. 10/749,497 : ON PETITION
Filed: December 31, 2003 :
Attorney Docket No. TI-34208 :

This is a decision on the petition under 37 CFR 1.182, filed January 10, 2005, to correct the names of two of the joint inventors.

The petition is **GRANTED.**

Office records have been updated to reflect the correction to inventor Henry Chu's name to Henry Chung-Hsin Chu and inventor Thomas Oudal's name to Thomas D. Oudal.

In view of the expedited issuance of patents, the Letters Patent may issue without the inventors' names as requested. If the Letters Patent is not printed with the inventors' names as desired, petitioner may request a certificate of correction and pay the $100 fee therefor.

A petition treated under the provisions of 37 CFR 1.182 requires a fee, effective November 22, 2004, of $400. Accordingly, as authorized, the $400 fee due will be charged to petitioner's deposit account.

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, the signature of Brian A. Carlson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. If Mr. Carlson desires to receive future correspondence regarding this application, an appropriate power of attorney or authorization of agent must be submitted.

Telephone inquiries concerning this matter may be directed to Retta Williams at (571) 272-3229.

This matter is being referred to the Publishing Division for further processing.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Brian A. Carlson
Slater & Matsil, L.L.P
17950 Preston Rd., Suite 1000
Dallas, TX 75252

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Richard C. Gunderson	: DECISION ON REQUEST FOR
Patent Number	: 7641647	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/749,499	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **774** 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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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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OFFICE OF PETITIONS

In re Application of	:	
Koichiro Tanaka et al	:	
Application No.10/749,505	:	DECISION GRANTING PETITION
Filed: January 2, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7244	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 31, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 18, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS and 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.*

PTO/SB/21 (08-00)

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/749,505
Filing Date	January 2, 2004
First Named Inventor	Koichiro TANAKA et al.
Group Art Unit	2822
Examiner Name	Mary A. Wilczewski
Attorney Docket Number	0756-7244

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ENCLOSURES *(check all that apply)*

- [x] Fee Transmittal Form
  - [x] Fee Attached
- [x] Amendment / Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [x] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [ ] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Declaration and Power of Attorney
- [ ] 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) _____
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group (*Appeal Notice, Brief, Reply Brief*)
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosures
  1. Petition to Withdraw from Issue
  2. Request for Continued Examination
  3.
  4.
  5.
  6.

Remarks

[x] The Commissioner is hereby authorized to charge any additional fees required or credit any overpayments to Deposit Account No. 50-2280 for the above identified docket number.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Eric J. Robinson, Reg. No. 38,285 Robinson Intellectual Property Law Office, P.C. PMB 955 21010 Southbank Street Potomac Falls, VA 20165
Signature	
Date	October 31, 2007

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Type or printed name			
Signature		Date	

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, 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.

PTO/SB/17 (10-04v2)
Approved for use through 07/31/2006. OMB 0651-0032
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.

FEE TRANSMITTAL FOR FY 2007

Effective 09/30/2007. Patent fees are subject to annual revision.

☐ Applicant Claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT ($) 940.00

Complete if Known	
Application Number	10/749,505
Filing Date	January 2, 2004
First Named Inventor	Koichiro TANAKA et al.
Examiner Name	Mary A. Wilczewski
Group Art Unit	2822
Attorney Docket No.	0756-7244

RECEIVED
OCT 3 1 2007
OFFICE OF PETITIONS

METHOD OF PAYMENT

1. ☐ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number: 50-2280

Deposit Account Name: Robinson Intellectual Property Law Office

☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 and credit overpayments

☐ Applicant claims small entity status. See 37 CFR 1.27

2. ☒ **Payment Enclosed:**

☒ Check ☐ Credit Card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1001	310	2001	155	Utility filing fee	
1111	510	2111	255	Search fee	
1311	210	2311	105	Examination fee	
Over 100 Sheets/260 for each additional 50					

SUBTOTAL (1) ($)

2. EXTRA CLAIM FEES

			Extra Claims		Fee from below		Fee Paid
Total Claims		-20** =		X	$50	=	
Independent Claims		-3** =		X	$210	=	
Multiple Dependent						=	

Large Entity Fee Code	Large Entity Fee	Small Entity Fee Code	Small Entity Fee ($)	Fee Description ($)
1202	50	2202	25	Claims in excess of 20
1201	210	2201	105	Independent claims in excess of 3
1203	370	2203	185	Multiple dependent claim, if not paid
1204	210	2204	105	** Reissue independent claims over original patent
1205	50	2205	25	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge – late filing fee or oath	
1052	50	2052	25	Surcharge – late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for *ex parte* reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	460	2252	230	Extension for reply within second month	
1253	1,050	2253	525	Extension for reply within third month	
1254	1,640	2254	820	Extension for reply within fourth month	
1255	2,230	2255	1,115	Extension for reply within fifth month	
1401	510	2401	255	Notice of Appeal	
1402	510	2402	255	Filing a brief in support of an appeal	
1403	1,030	2403	515	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	510	2452	255	Petition to revive – unavoidable	
1453	1,540	2453	770	Petition to revive – unintentional	
1501	1,440	2501	720	Utility issue fee (or reissue)	
1502	820	2502	410	Design issue fee	
1503	1,130	2503	565	Plant issue fee	
1462 1463 1464	400 200 130	1462 1463 1464	400 200 130	Petitions, Group I Petition, Group II Petitions, Group III	$130.00
1807	50	1807	50	Processing fee under 37 CR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	810	2809	405	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	810	2810	405	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	810	2801	405	Request for Continued Examination (RCE)	$810.00
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify) _____					

* Reduced by Basic Filing Fee Paid

SUBTOTAL (3) ($) 940.00

CERTIFICATE OF MAILING

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_____

SUBMITTED BY — Complete *(if applicable)*

Name *(Print/Type)*	Eric J. Robinson	Registration No. *(Attorney/Agent)*	38,285	Telephone	(571) 434-6789
Signature				Date	October 31, 2007

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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LARRY W. SMITH
2205 TELHURST STREET SW
ATLANTA, GA 30310

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JUL 3 1 2008

In re Application of	:	
SMITH, Larry W.	:	
Application No. 10/749,517	:	DECISION ON PETITION
Filed: January 2, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **19316.0002U1**	:	

This is a decision on the petition, filed August 30, 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 failure to reply in a timely manner to the non-final Office action mailed, February 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 May 9, 2007.

The petition is not accompanied by a statement of express abandonment in favor of the filing of a continuing application. In order to facilitate action, the petition to revive should include reference to the filing of a continuing application and a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a continuing application, the statement will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

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 $750; and (3) an adequate statement of unintentional delay.

This application is being revived solely for the purpose of continuity with the Application No. 12/218,705. As continuity has been established by revival of this application, this application is again abandonment in favor of continuing Application No. 12/218,705, filed August 30, 2007.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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DEC 18 2007

OFFICE OF PETITIONS

In re Application of :
Solomon et al. :
Application Number: 10/749522 : DECISION ON PETITION
Filing Date: 01/02/2004 :
Attorney Docket Number: :
SOLOMON=2B.2 :

This is a decision on the petition filed on October 15, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on January 19, 2007, for failure to timely file a proper response to the final Office action mailed on August 18, 2006, which set a three (3) month shortened statutory period for reply. On January 16, 2007, an amendment after final rejection and a two (2) month extension of the time for reply in accordance with 37 CFR 1.136(a) was obtained. The amendment, however, did not place the application in condition for allowance, and an Advisory Action Before the Filing of an

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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)).

Appeal Brief was mailed on October 3, 2007. Notice of Abandonment was mailed on December 13. 2007.

The Notice of Appeal filed October 15, 2007, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

This application is being referred to Technology Center Art Unit 1649 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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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Yuegang ZHANG, et al	:	
Application No. 10/749,529	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO WITHDRAW
Attorney Docket No. 070702006000	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on April 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: RAJ S. DAVE
DARBY & DARBY P.C.
1500 K STREET, N.W.
SUITE 250
WASHINGTON, D.C 20005-1714

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/749,529	12/30/2003	Yuegang Zhang	070702006000

CONFIRMATION NO. 8848

OC000000024254728

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/13/2007.

- 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).

Diane Goodwyn

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/749,529	12/30/2003	Yuegang Zhang	070702006000

CONFIRMATION NO. 8848

OC000000024254740

7278
DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

Date Mailed: 06/07/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/13/2007.

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.

Diane Goodwyn

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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CLIENT 21058
C/O DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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SEP 1 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Mark ROTH, et al	:	
Application No. 10/749,529	:	DECISION ON PETITION
Filed: December 30, 2004	:	TO WITHDRAW
Attorney Docket No. 21058/1208366-US1	:	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 13, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Marie Collazo and the attorneys associated with Customer Number 75172, have been revoked by the assignee of the patent application on August 19, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

/Diane Goodwyn/
Petitions Examiner
Office of Petitions

cc: INTEL CORPORATION
2200 MISSION COLLEGE BLVD.
SANTA CLARA, CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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WILLIAM B. KEZER
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	:	
MEDINA et al.	:	
Application No. 10/749,530	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO WITHDRAW
Attorney Docket No. 018781-005320US	:	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 27, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that William B. Kezer and those practitioners associated with Customer No. 20350 do not have power of attorney in this patent application. No power of attorney has been submitted. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Once the declaration has been filed by the inventors, the correspondence address can be changed by the parties identified in 37 CFR§ 1.33(b)(1), (3), and (4). See 37 CFR § 1.33(a)(2). Therefore, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by a proper party.

There is an outstanding Restriction/Election of Species Requirement mailed November 29, 2005 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: AMGEN
1120 Veterans Blvd.
South San Francisco, CA 94080

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P.O. Box 1450
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Raj S. Dave
Morrison & Foerster LLP
Suite 300
1650 Tysons Blvd.
Mclean, VA 22102

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Mineo Yamakawa et al.	:	
Application No. 10/749,532	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO WITHDRAW
Attorney Docket No. 21058/0206764-US0	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on June 2, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Darby & Darby P.C.**
P.O. Box 770
Church Street Station
New York, NY 10008-0770

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AUG 27 2009

OFFICE OF PETITIONS

Client 21058
c/o Darby & Darby P.C.
P.O. Box 770
Church Street Station
New York, NY 10008-0770

In re Application of	:	
Mineo Yamakawa, et al.	:	
Application No. 10/749,532	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO WITHDRAW
Attorney Docket No. 21058/0206764-US0	:	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 13, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Client 21058 c/o Darby & Darby P.C. has been revoked by the assignee of the patent application on August 19, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Pillsbury Winthrop Shaw Pittman, LLP**
P.O. Box 10500
McLean, VA 22102

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

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APR 1 2 2007

OFFICE OF PETITIONS

In re Application of	:
Kazuo Nishi et al	:
Application No. 10/749,552	: DECISION GRANTING PETITION
Filed: January 2, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7243	:

This is a decision on the petition, filed April 11, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 16, 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 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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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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BY: PM 4/16/07

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OFFICE OF PETITIONS

In re Application of	:
Kazuo Nishi et al	:
Application No. 10/749,552	: DECISION GRANTING PETITION
Filed: January 2, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7243	:

This is a decision on the petition, filed April 11, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 16, 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 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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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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PMB 955
21010 SUTHBANK ST.
POTOMAC FALLS VA 20105

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OFFICE OF PETITIONS

In re Application of	:	
Kazuo Nishi et al	:	
Application No. 10/749,552	:	DECISION GRANTING PETITION
Filed: January 2, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7243	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 13, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 9, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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ERIC ROBINSON
PMB 955
21010 SUTHBANK ST.
POTOMAC FALLS VA 20105

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OFFICE OF PETITIONS

BY: PA 6/18/08

In re Application of	:	
Kazuo Nishi et al	:	
Application No. 10/749,552	:	DECISION GRANTING PETITION
Filed: January 2, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7243	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 13, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 9, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OIPE IAP22
OCT 03 2008
PATENT & TRADEMARK OFFICE

ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

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BY: fm 4/16/07

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APR 12 2007
OFFICE OF PETITIONS

In re Application of	:
Kazuo Nishi et al	:
Application No. 10/749,552	: DECISION GRANTING PETITION
Filed: January 2, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7243	:

This is a decision on the petition, filed April 11, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 16, 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 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Apr10\749552.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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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

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SEP 2 4 2009

OFFICE OF PETITIONS

In re Patent No. 7,410,478 :
Issue Date: August 12, 2008 :
Application No. 10/749,563 : ON PETITION
Filed: January 2, 2004 :
Attorney Docket Number: :
YANG3057CIP2/REF

This is a decision on the petition, filed September 8, 2009, requesting the issuance of duplicate Letters Patent for the above-identified application. The petition is treated under 37 CFR 1.182.

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 August 12, 2008, 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.

Petitioners state that the Letters Patent were received and that they forwarded them, however, it appears that they were never received. As petitioners are not alleging that the loss of the letters patent was the fault of the USPTO and since petitioners have submitted the petition fee, a copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The petition fee has been applied.

A copy of this decision is being forwarded to Publishing Division for issuance of 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 Publishing Division 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.: _____

DATE : 11-30-07

TO SPE OF : **Technology Center** 3739

10/749577

SUBJECT : Request for Certificate of Correction on Patent No.: 7099711B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE

3739
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW 08-04

SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN VA 22102

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JUN 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Sekiguchi et al. :
Application No. 10/749,588 :
Filed: 2 January, 2004 :
Attorney's Docket No. FUR0005-DIV.7 :

ON PETITION

This is a decision on the petition filed on 20 April, 2004, under 37 CFR 1.182, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 2 January, 2004, with Figure 14 described in the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 2 January, 2004.

Accordingly, on 15 April, 2004, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application, stating that the application had been accorded a filing date of 2 January, 2004, but that Figure 14 described in the specification appeared to have been omitted.

In response, on 20 April, 2004, the present petition and one sheet of drawing containing Figure 14 were filed. Petitioners argue that Figure 14 was filed with the other application papers on 2 January, 2004, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an "Office date" stamp of 2 January, 2004, and identifies the application by the first named inventor's name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, "Drawings-49 sheets - 53 total figures". Petitioners request that the application, including one sheet of drawings containing Figure 14, be accorded a filing date of 2 January, 2004.

A review of the record reveals that 48 sheets of drawings were received on 2 January, 2004. No Figure 14 is located among the drawing figures received on that date. However, the evidence is convincing that the application papers deposited on 2 January,

2004, included one (1) sheet of drawings containing Figure 14, which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figure 14, is entitled to a filing date of 2 January, 2004.

The "Notice" mailed on 15 April, 2004, is vacated.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 50-1390.

The application will be processed with the copy of Figure 14 supplied on 20 April, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 2 January, 2004, using the application papers filed on that date, and the copy of drawing Figure 14 supplied with the present petition.

Telephone inquires should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 6/1/04

2 Serial/Patent # 10 749 588

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
1051	Petition		4/20/04	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 50--1390

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

PET DUE TO PTO ERROR

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: D WOOD TITLE: SR ATTY

SIGNATURE: D Wood PHONE: 3086918

OFFICE: OP

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kell DATE: 6/2/04

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

Best Available 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	ATTORNEY DOCKET NUMBER
10/749,588	01/02/2004	Takuya Sekiguchi	FUR0005-DIV.7

SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

OIPE JC98
APR 20 2004
PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 9005

FORMALITIES LETTER

OC000000012363021

Date Mailed: 04/15/2004

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Figure(s) **14** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and $130.00 petition fee *(37 CFR 1.17(h))*) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the $130.00 petition fee *(37 CFR 1.17(h))* requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, if required.

04/21/2004 HGUTEMA1 00000036 10749588
01 FC:1051 130.00 OP

Adjustment date: 06/02/2004 AKELLEY
04/21/2004 HGUTEMA1 00000036 10749588
01 FC:1051 -130.00 OP

06/02/2004 AKELLEY 00000245000
Date/Number: 10749588
Repln. Ref.: 130.00 OP
DCN:501390
FC: 9204

04/21/2004 HGUTEMA1 00000036 10749588
130.00 OP
01 FC:1051

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SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN VA 22102

JUN - 7 2004

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OFFICE OF PETITIONS

In re Application of :
Sekiguchi et al. :
Application No. 10/749,588 :
Filed: 2 January, 2004 :
Attorney's Docket No. FUR0005-DIV.7 :

ON PETITION

This is a decision on the petition filed on 20 April, 2004, under 37 CFR 1.182, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 2 January, 2004, with Figure 14 described in the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 2 January, 2004.

Accordingly, on 15 April, 2004, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application, stating that the application had been accorded a filing date of 2 January, 2004, but that Figure 14 described in the specification appeared to have been omitted.

In response, on 20 April, 2004, the present petition and one sheet of drawing containing Figure 14 were filed. Petitioners argue that Figure 14 was filed with the other application papers on 2 January, 2004, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an "Office date" stamp of 2 January, 2004, and identifies the application by the first named inventor's name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, "Drawings-49 sheets - 53 total figures". Petitioners request that the application, including one sheet of drawings containing Figure 14, be accorded a filing date of 2 January, 2004.

A review of the record reveals that 48 sheets of drawings were received on 2 January, 2004. No Figure 14 is located among the drawing figures received on that date. However, the evidence is convincing that the application papers deposited on 2 January,

2004, included one (1) sheet of drawings containing Figure 14, which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figure 14, is entitled to a filing date of 2 January, 2004.

The "Notice" mailed on 15 April, 2004, is vacated.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 50-1390.

The application will be processed with the copy of Figure 14 supplied on 20 April, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 2 January, 2004, using the application papers filed on that date, and the copy of drawing Figure 14 supplied with the present petition.

Telephone inquires 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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JEFFREY M. GREENMAN
BAYER PHARMACEUTICALS CORPORATION
400 MORGAN LANE
WEST HAVEN CT 06516

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OFFICE OF PETITIONS

In re Application of :
Albrecht MARHOLD et al :
Application No. 10/749,593 :
Filed: December 31, 2003 :
Attorney Docket No. Mo 5346D2/LeA 32 314D2 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 19, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 29, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 19, 2004 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 April 13, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results

in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

It is noted that the instant petition to revive signed by Richard S. Bullitt fails to include his registration number and name by his signature on the petition papers. 37 CFR 1.34 states that a registered attorney may act in a representative capacity before the U.S. Patent and Trademark Office by specifying his or her registration number and name along with the signature on any paper submitted before the office. The instant petition has been accepted based on the name and registration number found on the accompanying amendment.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application file is being referred to Technology Center Art Unit 1625 for appropriate action on the concurrently filed amendment.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

cc: RICHARD S. BULLITT
BAYER CORPORATION
36 COLUMBIA ROAD, P.O. BOX 1910
MORRISTOWN, NJ 07962

OIPE
DEC 2 3 2005
PATENT & TRADEMARK OFFICE

DPW

PTO/SB/83 (04-05)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/749,594
Filing Date	December 3, 2003
First Named Inventor	Richard J. Roberts
Art Unit	1744
Examiner Name	Balsis, Shay L.
Attorney Docket Number	CMJ-112-A

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved 5/12/06
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

Please withdraw me as attorney or agent for the above identified patent application, and

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Non-payment of invoices for services rendered within an acceptable time frame.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	Richard J. Roberts				
Address	44479 Reynolds Drive				
City	Clinton Township	State	MI	Zip	48036
Country	US				
Telephone	(586) 469-4944	Email			
Signature	Thomas D. Helmholdt				
Name	Thomas D. Helmholdt	Registration No.	33,181		
Date	December 19, 2005	Telephone No.	(248) 649-3333		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS MN 55432-5604

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SEP 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Benoit Marchal et al. :
Application No. 10/749,595 :
Filed: July 26, 2004 :
Attorney Docket No. P-8223.02US :
Title: GASTROELECTRIC :
STIMULATION FOR INFLUENCING :
PANCREATIC SECRETIONS :

DECISION ON PETITION

This is a decision on the petition filed July 26, 2004.

On December 31, 2003, the above-identified application was deposited. On May 24, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Non-provisional Application - Filing Date Granted (notice)", advising applicant that Figures 8a and 10a - 10b appeared to have been omitted. The Notice set a two-month period for response.

On July 26, 2004, Petitioner correctly submitted a petition under 37 C.F.R. §1.182, along with 11 sheets of drawings, which include Figures 8a and 10a - 10b. Petitioner has also included the petition fee and an attestation by an attorney who is not of record that a newly executed declaration is not required. Based on this petition, it is clear that Petitioner accepts the date of deposit of the formerly omitted drawings as the filing date.

The petition is **GRANTED**.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a **filing date of**

July 26, 2004, the date of receipt of the formerly omitted items, Figures 8a and 10a - 10b, using the original application papers filed December 31, 2003, and the figures submitted with the instant petition on July 26, 2004. **OIPE will then mail a corrected filing receipt.**

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/749,608	12/30/2003	2829	770	20067/OPP31484 US	3	9	1

CONFIRMATION NO. 8525

CORRECTED FILING RECEIPT

OC000000013393882

34431
GROSSMAN & FLIGHT, LLC
20 N. WACKER DRIVE
SUITE 4220
CHICAGO, IL 60606

Date Mailed: 07/30/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kwan-Ju Koh, Bucheon-city, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 10-2003-0006416 01/30/2003

If Required, Foreign Filing License Granted: 04/30/2004

Projected Publication Date: 08/12/2004

Non-Publication Request: No

Early Publication Request: No

Title

Methods of fabricating non-volatile memory devices

Preliminary Class

438

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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JUN 28 2005

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of Brian Alan Grove et al. Application No. 10/749,614 Filed: December 30, 2003 For: METHOD AND SYSTEM TO PUBLISH A SELLER FIXED PRICE OFFER	: : :	DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 15, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

10/749,614

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), The statement included in the request, "Discontinuation of attorney client relationship," does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). The attorney may not discontinue the attorney client relationship on his own accord.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/slb: 06/16/05

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SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Miroslav R. Petrov	: DECISION ON REQUEST FOR
Patent Number	: 7606893	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/749,616	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1159** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/18/2010

Applicant : Miroslav R. Petrov
Patent Number : 7606893
Issue Date : 10/20/2009
Application No : 10/749,616
Filed : 12/30/2003

: 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 **1259** 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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c/o CPA Global
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OFFICE OF PETITIONS

In re Application of	:	
Steven K. Reinhardt et al.	:	
Application No. 10/749,618	:	DECISION ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 42P17412	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Appeal Brief, mailed November 10, 2008. The Notice set a period for reply of one (1) month or thirty (30) days whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 2183 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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BLAKELY, SOKOLOFF,
TAYLOR & ZAFMAN, LLP
12400 WILSHIRE BLVD, 7TH FLOOR
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OFFICE OF PETITIONS

In re Application of
Brian Alan Grove, et al
Application No. 10/749,628
Filed: December 30, 2003
Attorney Docket No. 2043.100US1

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 15, 2004.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Blakely, Sokoloff, Taylor & Zafman LLP has been revoked by the assignee of the patent application on August 1, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: ANDRE L. MARAIS
SCHWEGMAN, LUNDGERG,
WOESSNER & KLUTH, P.A.
1600 TFC TOWER,
121 SOUTH EIGHTH STREET
MINNEAPOLIS, MN 55402

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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Brian Alan Grove	: DECISION ON REQUEST FOR
Patent Number	: 7593866	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/749,628	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1032** 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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ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER, NJ 08807

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MAR 03 2008

In re Application of :
Heinz-Werner Kleemann, et al. :
Application No. 10/749,630 :
Filed: December 31, 2003 :
Attorney Docket No. DEAV2002/0095 US CNT :

ON PETITION

This is a decision in response to the petition, filed August 21, 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 final Office action mailed November 24, 2006. A Notice of Abandonment was mailed on June 21, 2007. In response, on August 21, 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, and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1625 for appropriate action by the Examiner in the normal course of business on the reply received August 21, 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

Back To Home Page

PATENT APPLICATION

10749631

PATENT APPLICATION

JUN 26 2007

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ROSS J.OEHLER
SANOFI-AVENTIC U.S. LLC
1041 ROUTE 202-206
MAIL CODE D303A
BRIDGEWATER NJ 08807

In re Application of	:
Heniz-Werner Kleemen et al	:Decision on Petition
Serial No.: 10/749,631	:
Filed : 31 December 2003	:
Attorney Docket No.: DEAV2002/0094	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 13 December 2006 requesting withdrawal of a restriction requirement. The delay in acting upon this petition is regretted.

BACKGROUND AND DISCUSSION

A review pf the file history shows that this application was filed under 35 U.S.C 111(a0 on 31 December 2003, and contained claims 1-48. In a first Office action, mailed 25 October 2005, the examiner set forth a restriction requirement as follows:

Group I, claims 1-6, 20 and 33, drawn to products of Formula I
Group II, claims 7-19, 21-32 and 34-47 drawn to methods of using the products of Formula I and
Group III, claim 48, drawn to a process of preparing the products of Formula I.

The examiner also required an election of species within whichever group was elected. The examiner also advised applicants of possible rejoinder of product and process claims.

On November 22, 2005, applicants elected Group I and a species without traverse.

The petition filed 13 December 2006 states that the election was made on 22 November 2005 with traverse. This is incorrect. The election was made without traverse. On 22 November 2005, Applicants did not specifically and distinctly point out errors in the restriction requirement.

MPEP 818.03(c) states that applicants must traverse to preserve right of petition, citing 37 CFR 1.144, set forth below.

37 CFR 1.144. Petition from requirement for restriction.

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

If upon election, applicant does not distinctly and specifically point out supposed errors in the restriction requirement, the election should be treated as an election without traverse and be so indicated to the applicant by use of form paragraph 8.25.02. In the Office action mailed 22 February 2006, the examiner did just that. The examiner clearly stated that the election was made without traverse. However, in the interest of compact prosecution, this petition will be considered even though applicants did not traverse upon election.

MPEP 803.02 provides guidance concerning the examination practice for Markush-type claims.

> ...Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. If the Markush-type claim is not allowable, the provisional election will be given effect and examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration....

At the onset, the examiner followed this guidance. In the non-final Office action mailed 22 February 2006, the examiner concluded that the elected species would be allowable, if written as independent claim. The examiner also extended the search and examination to non-elected species and applied prior art under 35 USC 103(a) and made an obvious-type double patenting rejection.

With these two rejections, the Markush-type claim was found to be not allowable. It was appropriate then that the provisional election was given effect and further search and examination was not conducted.

The petition argues that in the first Office action on the merits, the examiner should have extended the search to one of the non-elected species of quinaline, isoquinaline or qunazoline. However, this is not persuasive. Once an elected species is found allowable, the examiner (not applicant) is entitled to select any second or subsequent species encompassed by the Markush-type for further search and examination. In response to a rejection, Applicants may help guide the examination process by removing non-patentable species from their Markush claim by amendment.

The petition then requests that the finality of the Office action mailed 8 September 2006 should be removed. In this argument, applicants are correct. In the first Office action on the merits, the examiner made the rejection under 35 USC 103(a) on a non-elected species (as appropriate for examination practice set forth in MPEP 803.02) but then withdrew the rejection as being improper because it was directed to non-elected species. The rejection under 35 USC 103(a) was not withdrawn because of an amendment by applicant to remove non-elected subject matter from

the claims. Because the examiner did not make and/or maintain a sustainable obviousness rejection, the Office actions are considered incomplete and finality is considered premature. The search and examination practice for the Markush-type claims should have been followed in a second non-final action on the merits. Instead, the examiner made the second Office action final, even though there was no rejection on a second or subsequent species encompassed by the Markush-type claim. The only outstanding rejection in the final Office action was made provisionally under obviousness-type double patenting. The applicants have responded to this rejection by filing a terminal disclaimer. For these reasons, the finality of the last Office action has been withdrawn.

DECISION

Accordingly, although the election was made without traverse, the petition filed under 37 CFR 1.144 has been considered on the merits and is **GRANTED-IN-PART**.

The restriction requirement and provisional election of species is proper. The Markush-type claims will be examined according to MPEP 803.02.

The finality of the Office action mailed 8 September 2006 has been withdrawn.

The application will be forwarded to the Examiner for consideration of the papers filed 5 March 2007 and for preparation of a non-final Office action following the examination practice set forth in MPEP 803.02.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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PETITION DECISION

07/15/04

Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/749652 received on 06/30/04 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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Foley & Lardner LLP
P.O. Box 80278
San Diego, CA 92138-0278

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OFFICE OF PETITIONS

In re Application of	:	
Pirjo Pasanen et al.	:	
Application No. 10/749,662	:	DECISION ON PETITION
Filed: December 31, 2003	:	TO WITHDRAW
Attorney Docket No. 088245-0236	:	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 10, 2007.

The request is **NOT APPROVED** 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 September 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Foley & Lardner LLP**
150 East Gilman Street
P.O. Box 1497
Madison, WI 53701-1497

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KACVINSKY LLC
C/O INTELLEVATE
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OFFICE OF PETITIONS

In re Application of	:	
Qinghua LI et al.	:	
Application No. 10/749,665	:	DECISION ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. **1020.P17465**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 22, 2008 and resubmitted on August 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 09, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed July 09, 2007. Accordingly, the date of abandonment of this application is October 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The duplicate publication fee of $300 will be refunded to the Deposit Account 50-4238.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Data Management for processing into a patent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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PARSONS HSUE & DE RUNTZ LLP
Suite 1800
655 Montgomery Street
San Francisco, CA 94111

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of :
Pinto et al. :
Application No. 10/749,669 :
Filed: December 30, 2003 : ON PETITION
Attorney Docket No. ZRAN.040US0 :

This is a decision in response to the Request for Corrected Filing Date and Filing Receipt, filed August 9, 2004, which is properly treated under 37 CFR 1.10(c), requesting the application be accorded a filing date of December 30, 2003, instead of the presently accorded filing date of December 29, 2003.

Petitioner alleges that the application was deposited in Express Mail service on December 30, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV321705573US, with a "Date-In" of December 30, 2003. A review of the application file reveal that the same Express Mail label receipt number, EV321705573US, was included on the Application Transmittal page filed with the application on December 30, 2003.

The Office considers the date the correspondence is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail mailing label. *See* MPEP § 513. The date indicated on the "date-in" on the Express Mail mailing label verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on December 30, 2003.

Applicant also files a copy of his return-receipt postcard indicating that this application, with Express Mail label No. EV321705573US, was received in this Office on December 30, 2003.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an

Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

In view of the foregoing, this Petition in **Granted**.

No petition fee has been charged and none is due.

This application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to December 30, 2003, and for the mailing of a Corrected Filing Receipt.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
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Mr. Stephen E. Bondura
Dority & Manning, P.A.
P.O. Box 1449
Greenville, SC 29602

Mail Date: 04/21/2010

Applicant	: Bryon Paul Day	: DECISION ON REQUEST FOR
Patent Number	: 7648771	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/749,681	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **57** 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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OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,579,439
Issued: August 25, 2009
Application No. 10/749,699
Filed: December 30, 2003
Attorney Docket No. 13985-0057002

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed October 26, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 120 days to 320 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 three hundred eighteen (318) 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 30, 2006 and ends on March 2, 2008, the day before the RCE was filed, the B delay is 427 (not 429) days. See 35 U.S.C. 154(b)(1)(B)(i). Further, a Notice of Appeal was filed August 1, 2007, thus 215 days of the over three year period consumed by appellate review, beginning August 1, 2007 and ending on March 2, 2008, is not included in the B delay. *See* 35 U.S.C. § 154(b)(1)(B)(ii). As such, the patent term adjustment is 318 days (415 + 427 minus 215 minus 309 days applicant delay), not 320 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) paid with the petition filed October 26, 2009. No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating

that the term of the above-identified patent is extended or adjusted by **three hundred eighteen (318)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,579,439 B2

DATED : August 25, 2009

INVENTOR(S) : Terry B. Strom

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 (120) days

Delete the phrase "by 120 days" and insert – by 318 days--

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JENKENS & GILCHRIST, P.C.
225 WEST WASHINGTON
SUITE 2600
CHICAGO, IL 60606

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MAR 17 2006

OFFICE OF PETITIONS

In re Application of :
Andrews, et al. :
Application No. 10/749,712 :
Filed: December 31, 2003 :
Attorney Docket No. 47099-00148USPT :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the Office action mailed April 18, 2005, which set a one (1) month period for response. Accordingly, this application became abandoned on May 19, 2005. A Notice of Abandonment was mailed on December 13, 2005.

Please note, the "Revocation and Appointment of Power of Attorney by Assignee" has not been entered. The copy of the original assignment papers submitted in support of the statement under 37 CFR 3.73(b) is not found in the application file and, as such, the revocation and appointment cannot be made at this time. 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.

Accordingly, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The file is being forwarded to Technology Center 3700.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

cc.
WINSTON & STRAWN LLP
1700 K STREET, N.W.
WASHINGTON, DC 20006

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HARRINGTON & SMITH, LLP
4 RESEARCH DRIVE
SHELTON CT 06484-6212

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JUL 0 7 2005

OFFICE OF PETITIONS

In re Application of
Brown
Application No. 10/749,715
Filed: December 30, 2003
Attorney Docket No. 003C.0006.U2 (US)
For: ELECTRICAL CONNECTOR HAVING CONNECTOR POSITION ASSURANCE MEMBER

: ON PETITION

This is a decision on the petitions filed May 31, 2005 (certificate of mailing date May 25, 2005) under 37 CFR 1.48(a), and on the petition under 37 CFR 1.47(a), which are being collectively being treated as **(1)** a petition under 37 CFR 1.48(a) to amend the inventive entity by addition of William R. Lyons (Lyons) and Phillip G. Seminara (Seminara), **(2)** a constructive petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being added (Seminara), and **(3)** as authorized by 37 CFR 1.48(a)(3) a petition under 37 1.47, to accept the declaration filed May 31, 2005 (certificate of mailing date May 25, 2005), which lacks the signature of Seminara required by 37 CFR 1.63.

The petition under 37 CFR 1.48(a) is **dismissed**.

The constructive petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2) is **dismissed**.

The petition under 37 CFR 1.47 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. FAILURE TO TIMELY RENEW THE PETITION WILL RESULT IN ABANDONMENT. The reconsideration request should include a cover letter entitled "Renewed Petitions under 37 CFR 1.48, 1.183, and 1.47."

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition including a statement from *each person being added* and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (3) the fee set forth in 37 CFR 1.17 (i); and (4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petitions of record lack compliance with items (1) and (2).

With respect to (1) above, each person being added must present *his* statement of lack of deceptive intent, or, if *his* statement cannot be obtained, then upon a showing of (1) extraordinary circumstances, such that (2) justice requires, petitioner may seek waiver under 37 CFR 1.183 of that part of the regulation. See MPEP 201.03(B). Petitioner must show that the inability to obtain the statement from Seminara is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond his control. Under the circumstances of this case, petitioner should proceed as noted in more detail *infra* to make his showing in support of his request for waiver.

With respect to (2) above, the entire showing of record, considered also under 37 CFR 1.47, does not currently warrant acceptance of the declaration under 37 CFR 1.63 and 37 CFR 1.48(a)(3), filed with the instant petition, so as to amend the inventive entity of record under 37 CFR 1.48(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; and (4) a statement of the last known address of the non-signing inventor.

The petition lacks item (1) set forth above.

With respect to (1) above, Rule 47 applicant asserts that an attempt was made to mail a copy of the application papers to Seminara's last known "official" address on April 8, 2005. A reminder letter mailed on May 13, 2005 was not delivered because UPS determined the inventor had moved.

An independent review of the tracking information for the April 8, 2005 mailing (Tracking No. 1Z1823461393986122) reveals that the package was left on the front porch. Since UPS determined that the inventor had moved by May 13, 2005, presumably the April 8, 2005 mailing left on the front porch did not reach Seminara.

The applicable statute (35 U.S.C. 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. See MPEP 409.03(a). The record currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate Seminara so as to obtain his statement under 37 CFR 1.48(a)(2), much less his signature on the declaration, such that the declaration can be accepted under 37 CFR 1.47. Such is required for any renewed petition.

Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

If Seminara is located, then a copy of the transmittal letter itemizing the 48(a)(2) statement, and complete application papers including declaration, as well as a copy of the proof of service on Seminara will be required.

It is important that the forthcoming reconsideration petitions contain statements of fact as opposed to conclusions. If there is an express oral refusal, a statement from the person to whom that refusal was made should be made of record.

Regarding finances, petitioner has paid the $200.00 Rule 47 petition fee and the $130.00 Rule 1.48 processing fee. A $400.00 1.183 waiver petition fee is required. Pursuant to petitioner's authorization, this fee will be charged to deposit account no. 50-1924.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	U.S. Patent and Trademark Office Customer Service Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314
By FAX until 7/15/05:	(703) 872-9306 – ATTN: Office of Petitions
By FAX after 7/15/05:	(571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries pertaining to this decision should be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
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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HARRINGTON & SMITH, LLP
4 RESEARCH DRIVE
SHELTON CT 06484-6212

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MAY 0 2 2006
OFFICE OF PETITIONS

In re Application of Brown Application No. 10/749,715 Filed: December 30, 2003 Attorney Docket No. 003C.0006.U2 (US) For: ELECTRICAL CONNECTOR HAVING CONNECTOR POSITION ASSURANCE MEMBER	ON PETITION

This is a decision on the reconsideration petition filed July 21, 2005 under 37 CFR 1.48(a), to amend the inventive entity by addition of William R. Lyons (Lyons) and Phillip G. Seminara (Seminara).

The petition under 37 CFR 1.48(a) is **dismissed as moot** because the requested changes were made by a USPTO division other than the Office of Petitions on August 26, 2005 and the patent issued with the correct inventive entity listed.

After the mailing of this decision, the application file will be returned to Files Repository.

Telephone inquiries pertaining to this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Patent No. 6,945,801 :
Issued: September 20, 2005 :
Application No. 10/749,715 : CORRECTED DECISION
Filed: December 30, 2003 :
Attorney Docket No. 003C.0006.U2 (US) :
For: ELECTRICAL CONNECTOR HAVING CONNECTOR POSITION ASSURANCE MEMBER

This is a corrected decision on the reconsideration petition filed July 21, 2005 under 37 CFR 1.48(a), to amend the inventive entity by addition of William R. Lyons (Lyons) and Phillip G. Seminara (Seminara).

The petition is **dismissed**.

While the requested inventorship changes were entered in USPTO databases by a USPTO division other than the Office of Petitions on August 26, 2005, they were not made on the record by a proper deciding official.

Now that the patent has issued with an incorrect inventive entity listed, the petition must be treated under 37 CFR 1.324 and must be handled by a Supervisory Patent Examiner. MPEP 1002.02(d)(5).

The Office of Petitions does not have jurisdiction over this matter. Therefore, the July 21, 2005 petition under 37 CFR 1.48(a) is dismissed.

After the mailing of this decision, the application file will be will forwarded to Technology Center 2833 where the July 21, 2005 petition under 37 CFR 1.48(a) will be treated under 37 CFR 1.324.

Telephone inquiries pertaining to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 072006

MARK F. HARRINGTON
HARRINGTON & SMITH LLP
4 RESEARCH DRIVE
SHELTON, CT 6484-6212

JUL 27 2006

In re Application of:	:	
Cecil Brown	:	PETITION FOR CORRECTION OF
Serial No.: 10/749,715	:	INVENTORSHIP
Filed: December 20, 2003	:	UNDER 37 CFR § 1.324
Attorney Docket No.: 003C.0006.U2 (US)	:	

This is a decision on the petition filed July 21, 2005 to correct inventorship under 37 CFR 1.324.

The petition is granted.

In view of the papers filed May 31 and July 21, 2005 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.324. The inventorship of this application has been changed by adding the names:

William R. Lyons
Phillip G. Seminara

The application will be forwarded to the Certificate of Correction Branch for correction to reflect the inventorship as corrected.

Paula A. Bradley
Supervisory Patent Examiner,
Art Unit 2833

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 27 2006

In re Patent No. 6,945,801	:	
Issue Date: September 20, 2005	:	
Appl No.: 10/749,715	:	CERTIFICATE OF
Filed: December 30, 2003	:	CORRECTION
For: ELECTRICAL CONNECTOR HAVING	:	*37 CFR 1.322*
CONNECTOR POSITION ASSURANCE	:	
MEMBER	:	
	:	

This is in response to the petition filed July 21, 2005 under 37 CFR 1.324. The Rule 324 petition was timely filed and has been considered. In view of the fact that the patent has already issued, a Certificate of Correction will be issued pursuant to 37 CFR 1.322.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate indicating that the references have been considered.

Paula Bradley
Supervisory Patent Examiner
Art Unit 2833
Technology Center 2800

Mark F. Harrington
HARRINGTON & SMITH LLP
4 RESEARCH DRIVE
SHELTON, CT 06484-6212

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/17/2010

Applicant	: Lyonel Renaud	: DECISION ON REQUEST FOR
Patent Number	: 7631118	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/749,721	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1723** 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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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

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JUN 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Alexander M. Franz, et al. :
Application No. 10/749,730 : ON PETITION
Filed: December 30, 2003 :
Attorney Docket No. 16113-1303001 / GP-110-10 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. ' 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 11, 2008.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The petition lacks item (1).

---

[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.

In this regard 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). However, the present petition references a response previously filed on October 5, 2007, which predates the final Office action of February 11, 2008.

Since the petition is not accompanied by the required reply, the petition 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
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 18, 2008

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/749734 Patent No.: 7123500 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.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: OK, TL

SPE

2827
Art Unit

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/13/2010

Applicant	: Eric Debes	: DECISION ON REQUEST FOR
Patent Number	: 7624138	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/749,738	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **919** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NEW YORK NY 10017

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Schurenberg et al. :
Application No. 10/749,746 : ON PETITION
Filed: August 31, 2003 :
Attorney Docket No.: 11389-0037-999:

This is a decision on the "Response to Notice of Omitted Items in a Nonprovisional Application" filed June 3, 2004, requesting in effect, that a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") mailed May 3, 2004 be withdrawn.

The application was filed on August 31, 2003. However, on May 3, 2004, the Office of Initial Patent Examination mailed the Notice stating that the application had been accorded a filing date of August 31, 2003 but figure 80 as described in the specification appeared to have been omitted.

In response, figure 80 as described in the specification and the present petition were filed on June 3, 2004. The petition states figure 80 was inadvertently omitted. Applicants argues since the specification submitted on August 31, 2003 indicated the present application is a continuation application and incorporated by reference the entire disclosure of a prior application, figure 80 was constructively filed.

The petition is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1)promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission

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as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioner neither asserts that the missing page was actually deposited in the PTO on August 31, 2003, with the other application papers nor request a later filing date.

Instead, applicants seek to add the pages of the specification to the present application on the basis that the pages are not new matter. However, no petition is necessary for that purpose. Additional pages of the specification may be entered by the primary examiner without a petition so long as the pages contain no new matter. See MPEP 608.02(a).
MPEP 201.06 (c) states that:

... an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), <u>without the need for a petition</u>. (emphasis supplied)

In view of the incorporation by reference of the prior application, figure 80 as described in the specification supplied on June 3, 2004, would not constitute new matter if it was part of the original disclosure of the prior application (09/734,336).

If applicants desire that figure 80 be added to the application, the appropriate procedure is by way of amendment requesting the entry of the pages. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

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Obviously, in view of the incorporation by reference of the prior application, figure 80 as described in the specification is not new matter if it was a part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 31, 2003 using the application papers received in the Office on that date.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petition Attorney
Office of Petitions

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080708B

DATE : October 18, 2007

TO SPE OF : ART UNIT 3765

SUBJECT : Request for Certificate of Correction on Patent No.: 10/749,758

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: /Gary L. Welch/ Art Unit 3765

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SCHWEGMAN, LUNDBERG & WOESSNER/SAP
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/30/2010

Applicant	: Janko Budzisch	: DECISION ON REQUEST FOR
Patent Number	: 7617462	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/749,769	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **923** 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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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Kil-Ho Jeong	: DECISION ON REQUEST FOR
Patent Number	: 7643815	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/749,788	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1317** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,818	12/31/2003	David W. Boggs	42P18280	9358

8791 7590 05/11/2005

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER
NASRI, JAVAID H

ART UNIT	PAPER NUMBER
2839	

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

MAY - 9 2005

In re Application of:
Boggs et al.
Serial No.: 10/749,818
Filed: December 31, 2003
Attorney Docket No.: 42P18280

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed April 15, 2005, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to T. C. Patel at (571) 272-2098.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No.

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Patent No. 7,601,285	:	DECISION ON REQUEST
Burgmeier et al.	:	FOR
Issue Date: October 13, 2009	:	RECONSIDERATION OF
Application No. 10/749,821	:	PATENT TERM ADJUSTMENT
Filed: December 31, 2003	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
S63.2-11032-US01	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 3, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred twenty-two (1122) 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 twenty-one (1121) 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 January 1, 2007 and ends on July 27, 2008, the day before the RCE was filed, and not July 28, 2008 the day of filing of the RCE as calculated by patentees. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 574 not 575 days, and the B delay considering the 183 days of overlap is 391, not 392 days. As such, the correct patent term adjustment is 1121, not 1122 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred twenty-one (1121)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,601,285 B2

DATED : **October 13, 2009** **DRAFT**

INVENTOR(S) : Burgmeier 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 730 days.

Delete the phrase "by 730 days" and insert – by 1121 days--

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JJGJR.: 07-06

Paper No: __

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Kang	:	DECISION
Application No.: 10/749,836	:	
Filing Date: 30 December, 2003	:	
Attorney Docket No. 51876P559	:	

This is a decision on the series of petitions filed on 19 June, 2006, to withdraw the holding of abandonment and is considered under 37 C.F.R. §1.181; and, alternatively, for revival as abandoned due to unavoidable delay (37 C.F.R. §1.137(a)).

NOTES:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Moreover, Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**; and the petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply to the Notice of Allowance/Allowability and Fees Due mailed on 29 March, 2005, with reply, due under a non-extendable deadline on or before 29 June, 2005;
- the application went abandoned by operation of law after midnight 25 May, 2005;
- the Office mailed the Notice of Abandonment on 18 August, 2005;
- on 19 June, 2006, Petitioner the instant petition and averred that papers were erroneously filed into the instant application, Application No.: 10/749,836, rather than the properly designated Application No.: 10/794,836, Petitioner sought to Notice the Office as to the error on 11 April, 2005, and supported these statements with documentary showings consistent with the guidance in the commentary at MPEP §711.03(c), and, in the alternative requested revival and alleged unavoidable delay (37 C.F.R. §1.137(a), authorizing fees), and made the statement of unavoidable delay;
- moreover, the Examiners have indicated that they will withdraw the Notice of Allowance/Allowability and Fees Due (as improvidently entered).

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and
- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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

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Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective 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.

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]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

Further, the commentary at MPEP §711.03(c) also provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as

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[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.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation (37 C.F.R. §1.181[9]) requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to no have satisfied the "showing" and "timing" requirements described above.

<u>As to the Allegations</u>
<u>of Unavoidable Delay</u>

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

This matter is moot.

---

[9] The regulations at 37 C.F.R. §1.181 provide:
§ 1.181 Petition to the Director.
<>
(a) Petition may be taken to the Director:
(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and
(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.
(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.
(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.
(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.
(e) Oral hearing will not be granted except when considered necessary by the Director.
(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.
(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.
[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

CONCLUSION

It appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, and the petition as considered under 37 C.F.R. §1.181 is **granted** and the Notice of 25 May, 2006, is **vacated**; and the petition under 37 C.F.R. §1.137(a) is **dismissed as moot**.

The instant application is released to Technology Center 2800 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

08791 7590 03/29/2005

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER
LE, THONG QUOC

ART UNIT	PAPER NUMBER
2827	

DATE MAILED: 03/29/2005

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,836	12/30/2003	Sang-Hee Kang	51876P559	9426

TITLE OF INVENTION: SEMICONDUCTOR MEMORY DEVICE HAVING ADVANCED REPAIR CIRCUIT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$1700	06/29/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 12/04) Approved for use through 04/30/2007.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

08791 7590 03/29/2005

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,836	12/30/2003	Sang-Hee Kang	51876P559	9426

TITLE OF INVENTION: SEMICONDUCTOR MEMORY DEVICE HAVING ADVANCED REPAIR CIRCUIT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$1700	06/29/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
LE, THONG QUOC	2827	365-200000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
   - ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
   - ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
   (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
   (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
   1 _____
   2 _____
   3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:
- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):
- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

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 to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,836	12/30/2003	Sang-Hee Kang	51876P559	9426

08791 7590 03/29/2005

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER
LE, THONG QUOC

ART UNIT	PAPER NUMBER
2827	

DATE MAILED: 03/29/2005

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

PTOL-85 (Rev. 12/04) Approved for use through 04/30/2007.

Notice of Allowability	Application No.	Applicant(s)	
	10/749,836	KANG, SANG-HEE	
	Examiner	Art Unit	
	Thong Q. Le	2827	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *01/31/2005*.

2. ☒ The allowed claim(s) is/are *4-10*.

3. ☒ The drawings filed on *30 December 2003* are accepted by the Examiner.

4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☒ All b) ☐ Some* c) ☐ None of the:
      1. ☒ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Thong Q. Le
Primary Examiner
Art Unit: 2827

Gillon, John

From: Zarabian, Amir
Sent: Thursday, July 20, 2006 10:28 AM
To: Gillon, John
Subject: RE: 10/749,836

John,

We will withdraw Allowance after petition is granted.

Thanks
Amir

-----Original Message-----
From: Gillon, John
Sent: Wednesday, July 19, 2006 12:38 PM
To: Le, Thong; Zarabian, Amir
Subject: 10/749,836
Importance: High

Examiners,

The attorney argues in the petition that the 3/29/05 ALLOWANCE was improperly issued in 10/749,836 because a paper addressed to 10/794,836 was temporarily in the wrong application.

Will you withdraw the 3/29/05 ALLOWANCE?

John J. Gillon, Jr., J.D., M.P.H.
Senior Attorney
Office of Petitions
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450
VOX 571.272.3214
FAX 571.273.0025 (Courtesy Line Only)
FAX 571.273.8300 (Formal Filing Line)
Email John.Gillon@uspto.gov <mailto:John.Gillon@uspto.gov>
Website www.uspto.gov <http://www.uspto.gov>
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This electronic mail transmission contains confidential information intended only for the person(s) named. Any use, distribution, copying or disclosure by another person is strictly prohibited.
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LEE & HAYES PLLC
421 W. RIVERSIDE AVENUE, SUITE 500
SPOKANE, WA 99201

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MAR 13 2007

OFFICE OF PETITIONS

In re Application of :
Farnham, et al. :
Application No. 10/749,870 :
Filed: December 31, 2003 :
Attorney Docket No. MS1-1914US :

ON PETITION

This is a decision on the "Petition to accept Unintentionally Delayed Priority Claim under 35 U.S.C. § 120" which will be treated as a petition under 37 CFR 1.78(a)(3) filed September 25, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application set forth in an amendment to the first page of the specification filed with instant petition. The petition will also be treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority of the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is also **GRANTED**.

TREATMENT 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 required by 35 U.S.C § 120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

2. the surcharge set forth in § 1.17(t), and

3. a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application, found in the amendment to the first page of the specification, was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

TREATMENT UNDER 37 CFR 1.78(a)(6)

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

1. the reference required by 35 USC 119(e) and paragraph (a)(5) of this section to the prior-filed provisional 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 paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application, found in the amendment to the first page of the specification, 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. § 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) and 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 nonprovisional application and provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571)272-3222.

This matter is being referred to Technology Center 2100, Art Unit 2167 for further processing, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C.§ § 120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Charles Pearson
Director
Office of Petitions

Enclosure: 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

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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JAN 14 2005

OFFICE OF PETITIONS

In re Application of
Teresa M. Zander et al.
Application No. 10/749,871
Filed: December 30, 2003
Attorney Docket No. 659-2080

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed November 15, 2004 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on December 2004, naming Teresa M. Zander, Kristi Jo Bryant, Debra A. Haase, Sheila M. Heyrman, Kim Hoertsch, Adrienne R. Loyd, William G. Reeves, Garry R. Woltman, Theodore T. Tower as joint inventors but without a signed declaration. Accordingly, on August 9, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, an oath or declaration executed only by joint inventors Zander, Bryant, Haase, Heyrman, Loyd, Reeves, Woltman and Tower, an extension of time request and the instant petition under 37 CFR 1.47(a) was filed. The petition argues that joint inventor Hoertsch refuses to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that efforts to have Ms. Hoertsch join in the filing of the instant application, including mail to the last known address and telephone calls, but that Ms. Hoertsch has not complied with the requests to have the oath or declaration executed and thus by her actions refuses to cooperate with the filing of the application.

The above-identified application and papers have been reviewed and found in

compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, 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 is being forwarded to Technology Center 3765 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

KIM HOERTSCH
2262 MEADOW GREEN DRIVE
NEENAH, WI 54956

COPY MAILED

JAN 14 2005

OFFICE OF PETITIONS

In re Application of
Teresa M. Zander et al.
Application No. 10/749,871
Filed: December 30, 2003
For: Visually Coordinated Absorbent Product

Dear Ms. Hoertsch:

You are named as joint inventors 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 joint inventors.

As named inventors 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 Petitions Attorney at (571) 272-3212. 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).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

Paper No.

WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

In re Application of	:	
Hyttinen et al.	:	
Application No. 10/749,872	:	DECISION ON PETITION
Filed: December 31, 2003	:	PURSUANT TO
Attorney Docket No.: 915-008.018	:	37 C.F.R. § 1.181(A)
Title: LOG SYSTEM FOR CALENDAR ALARMS	:	

This is a decision on the petition filed July 24, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the notice of non-compliant amendment, mailed April 16, 2008, which set a period for reply of one month. No response was received. Accordingly, the above-identified application became abandoned on May 17, 2008. A notice of abandonment was mailed on June 8, 2009.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action.

Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. **The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable.** It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the

> Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).
>
> (Emphasis added).

ANALYSIS

Practitioner has stated that the notice of non-compliant amendment was not received at the correspondence address of record,[1] and that a search of the "files" indicates the same.[2]

Petitioner has asserted that he searched the "files," however it is not clear if Petitioner searched both the file jacket and the contents of the same. The Office will construe this statement to mean that both the file jacket and its contents were reviewed, and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

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1 Petition, page 2.
2 Id.

Petitioner has further included a copy of both the mail log and the master docket for the relevant time period.

Petitioner's assertion of non-receipt has not been adequately supported, as will be now pointed out.

First, Petitioner has not provided a **statement describing the system used for recording an Office communication received at the correspondence address of record with the USPTO**.

Second, Petitioner has not established that the docketing system is **sufficiently reliable**.

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted**. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures should be directed to the Technology Center.

Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

Paul Shanoski
Senior Attorney
Office of Petitions

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OFFICE OF PETITIONS

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In re Application of Hyttinen et al. Application No. 10/749,872 Filed: December 31, 2003 Attorney Docket No.: 915-008.018 Title: LOG SYSTEM FOR CALENDAR ALARMS	:	DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.181(A)

This is a decision on the renewed petition filed October 5, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED.**

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the notice of non-compliant amendment, mailed April 16, 2008, which set a period for reply of one month. No response was received. Accordingly, the above-identified application became abandoned on May 17, 2008. A notice of abandonment was mailed on June 8, 2009.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. **The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable.** It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the

> practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).
>
> (Emphasis added).

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on July 24, 2009, where Practitioner indicated that the notice of non-compliant amendment was not received at the correspondence address of record,[1] and that a search of the "files" indicates the same.[2] Petitioner further included a copy of both the mail log and the master docket for the relevant time period. The original petition was dismissed via the mailing of a decision on September 1, 2009.

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1 Original Petition, page 2.
2 Id.

With this renewed petition, Petitioner has included, *inter alia*, copies of daily mail lists (which are distributed to each practitioner for his/her review), and a description of the system used for recording an Office communication received at the correspondence address of record with the USPTO. Petitioner indicated that all mail received from the Office is entered onto a daily mail list, and all communications that carry a period for response are entered into "the electronic docketing system." Moreover, due dates are placed on the front of the application file wrappers, and docket entries appear "in the printed docket for each individual practitioner."[3]

However, the record does not support a finding that the docketing system is sufficiently reliable, as the petition is silent as to how this docketing system serves to ensure that the correspondence recorded therein is responded to in a timely manner. **On second renewed petition, Petitioner should:**

- **indicate whether the electronic docketing system generates the above-mentioned printed dockets;**
- **indicate the frequency at which these printed dockets are generated (*i.e.*, are they printed on a weekly basis?) ;**
- **indicate whether these printed dockets are distributed to each practitioner for his/her review, and;**
- **provide a copy of the printed docket(s) for the relevant practitioner during the relevant timeframe, to show that the notice of non-compliant amendment of April 16, 2008 does not appear thereon.**

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[4] hand-delivery,[5] or facsimile.[6] Registered

3 Renewed petition, page 3.
4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures should be directed to the Technology Center.

Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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6 (571) 273-8300- please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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COPY MAILED
JAN 29 2010

In re Application of Hyttinen et al. Application No. 10/749,872 Filed: December 31, 2003 Attorney Docket No.: 915-008.018 Title: LOG SYSTEM FOR CALENDAR ALARMS	DECISION ON SECOND RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.181(A)

This is a decision on the second renewed petition filed January 4, 2010,[1] pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This second renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the notice of non-compliant amendment, mailed April 16, 2008, which set a period for reply of one month. No response was received. Accordingly, the above-identified application became abandoned on May 17, 2008. A notice of abandonment was mailed on June 8, 2009.

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on July 24, 2009, where Practitioner indicated that the notice of non-compliant amendment was not received at the

1 It is noted that January 2, 2010 fell on a Saturday.

correspondence address of record,[2] and that a search of the "files" indicates the same.[3] Petitioner further included a copy of both the mail log and the master docket for the relevant time period. The original petition was dismissed via the mailing of a decision on September 1, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed on October 5, 2009, along with, *inter alia*, copies of daily mail lists (which are distributed to each practitioner for his/her review), and a description of the system used for recording an Office communication received at the correspondence address of record with the USPTO. Petitioner indicated that all mail received from the Office is entered onto a daily mail list, and all communications that carry a period for response are entered into "the electronic docketing system." Moreover, due dates are placed on the front of the application file wrappers, and docket entries appear "in the printed docket for each individual practitioner."[4] The renewed petition was dismissed via the mailing of a decision on November 2, 2009.

With this second renewed petition, Petitioner has indicated that the electronic docketing system generates the printed dockets on a monthly basis and are distributed to each attorney for his/her review,[5] and has provided a copy of the printed docket for the relevant practitioner during the relevant timeframe, to show that the notice of non-compliant amendment of April 16, 2008 does not appear thereon.[6]

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the notice of non-compliant amendment of April 16, 2008 was not received, pursuant to MPEP § 711.03(c).

Accordingly, this second renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

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2 Original Petition, page 2.
3 Id.
4 Renewed petition, page 3.
5 Id.
6 It is noted that the docket does not appear to contain complete docket numbers, and as such, there are several entries which contain the identifier "915-008" as the associated attorney docket number. However, none of these entries list "Log System for Calendar Alarms" as the title of the application, and as such, none appear to be associated with the present application.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on January 4, 2010 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[7] 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

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7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

jm

Mailed : 6-7-06

In re application of :
Guderman et al. : DECISION ON
Serial No. 10/749,876 : PETITION
Filed : December 31, 2003 :
For: RADIATION PATTERNABLE FUNCTIONAL MATERIALS, METHODS OF THEIR USE, AND STRUCTURES FORMED THEREFROM

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed April 20, 2005 and made final in the office action mailed August 11, 2005.

On April 20, 2005, a seven-way restriction requirement was made by the examiner. The examiner took the position that the groupings of claims I and II, I and V, I and VI, I and VII, II and III, II and IV, II and VI, II and VII, III and IV, III and V, III and VII, IV and V, IV and VI, IV and VII, V and VI, V and VII were each unrelated; I and III, and III and VI are each related as product and process of use; I and IV, II and V, and VI and VII are each related as process of making and product made. Applicants traversed the restriction requirement in a response filed May 19, 2005, and canceled Group VII. The examiner repeated the restriction requirement in an office action mailed August 11, 2005 and made the restriction requirement final. In making the restriction final, the examiner states that the inventions are distinct because different groups are all classified in different areas requiring different searches. The examiner states that the search for a radiation patternable material is different from a simple particle, or the process of forming that particle. The examiner states that the radiation patternable material is not required to be employed in a material or process as other groups are drawn to. Applicants continued to argue the restriction requirement in a response filed December 12, 2005. Applicants further amended the claims to have dependency from claim 1 for each claim. The examiner prepared a final action that was mailed on February 24, 2006 making the art rejection of elected Group I final, and did not respond to applicant's further restriction requirement arguments or amendments regarding such, except to state that despite amendment, the claims stand withdrawn.

On December 12, 2005, the instant petition under 37 CFR 1.181 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the separate groups are independent and distinct.

DECISION

Sections 803 and 806.05(c) of the MPEP state:

803 Restriction - When Proper
Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(j). and § 809.03.

806.05(c) Criteria of Distinctness Between Combination and Subcombination
To support a requirement for restriction between combination and subcombination inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., there would be a serious search burden as evidenced by separate classification, status, or field of search. See MPEP § 808.02. The inventions are distinct if it can be shown that a combination as claimed: (A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and (B) the subcombination can be shown to have utility either by itself or in another materially different combination. When these factors cannot be shown, such inventions are not distinct.

806.05(f) Process of Making and Product Made
A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make another materially different product; or (B) that the product as claimed can be made by another materially different process.
Allegations of different processes or products need not be documented.
If applicant convincingly traverses the requirement, the burden shifts to the examiner to document a viable alternative process or product, or withdraw the requirement.

806.05(h) Product and Process of Using
A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process.

Upon review of the initial restriction requirement, the examiner's analysis of Groups I and III as related as product and process of use was flawed. Claim 1 of Group I is drawn to a radiation patternable functional material, while claim 38 of Group III is drawn to a radiation definable ink comprising the material of claim 1 and a solvent. Group III is not directed to a process at all, but rather a composition. Groups I and III are related as combination/subcombination, and as claim 38 requires all the particulars of the subcombination, distinctness cannot be shown. Therefore, Group I as originally restricted should have included claims 1-20, and 38-63.

Groups I and II were restricted as being unrelated. However, applicant amended claim 21 of Group II to be dependent upon claim 1 of Group I in response to the non-final action of August 11, 2005. These claims should now be rejoined with Group I as they can no longer be shown to be distinct inventions. While the restriction between these two groups may have been proper at the outset, the restriction requirement cannot be maintained in light of applicant's amendment. Furthermore, the examiner could have examined the new claims and still made a final rejection as they would have been newly presented claims.

Groups III and VI are indeed related as product and process of use, however, the examiner has not provided rational as to how these two groups are distinct. The examiner merely states that the ink of Group III is not required to be employed in the method of Group IV, and the method of Group VI does not require the use of the ink. According to 806.05(h) to show distinctness, the examiner must show either the process can be practiced with a materially different product, or the product may be used in a different process. The examiner's rational

fails to show either. Since the process is dependent upon the product (ink), it cannot be shown that the process may be performed with a different product. The examiner offered no alternative method in which the ink may be used and the requirement is incomplete.

Groups IV and V are methods of making Groups I and II, respectively. The examiner stated that the process of Group IV is generic and can be employed to prepare many other materials having different composition than that of Group I. Regarding Groups II and V, the examiner merely stated that the compound may be made by employing a different process and the process may be employed to prepare a different product. The examiner has provided no rational or hint of reasoning as to why the process of making the product and the product are independent and distinct. Merely stating that the inventions are independent or distinct because they can be made by a different process or made to form a different product does not properly meet the burden required to show patentable distinction. Therefore, for this reason alone, the restriction requirement is incomplete.

Inasmuch as a restriction requirement may be made, the examiner has not met the burden of showing patentable distinction.

In the response to the traversal of the restriction requirement, the examiner failed to specifically address any of the arguments set forth by Applicant. Instead, the examiner merely restated that the inventions are distinct because different groups are all classified in different areas requiring different searches. In fact, Applicants had set forth clear and persuasive arguments showing why at least some of the requirement was in fact in error. Because the examiner has not shown that the groups of claims are independent and distinct, the restriction requirement is not proper. Accordingly, the petition for withdrawal of the restriction requirement is **GRANTED.**

The application is being forwarded to the examiner to prepare a new office action in light of the withdrawal of the current restriction requirement. If the examiner intends to apply another restriction requirement, they are instructed to provide clear and concise reasoning for how the groupings are independent and distinct according to the MPEP guidelines stated above. Furthermore, at least claims 1-63 should be examined together for reasons outlined above.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D, P.C.
7257 N. MAPLE AVENUE
BLDG. D, SUITE 107
FRESNO, CA 93720

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Alexandria, VA 22313-1450
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jm

Mailed : 6-7-06

In re application of :
Guderman et al. : DECISION ON
Serial No. 10/749,876 : PETITION
Filed : December 31, 2003 :
For: RADIATION PATTERNABLE FUNCTIONAL MATERIALS, METHODS OF THEIR USE, AND STRUCTURES FORMED THEREFROM

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed April 20, 2005 and made final in the office action mailed August 11, 2005.

On April 20, 2005, a seven-way restriction requirement was made by the examiner. The examiner took the position that the groupings of claims I and II, I and V, I and VI, I and VII, II and III, II and IV, II and VI, II and VII, III and IV, III and V, III and VII, IV and V, IV and VI, IV and VII, V and VI, V and VII were each unrelated; I and III, and III and VI are each related as product and process of use; I and IV, II and V, and VI and VII are each related as process of making and product made. Applicants traversed the restriction requirement in a response filed May 19, 2005, and canceled Group VII. The examiner repeated the restriction requirement in an office action mailed August 11, 2005 and made the restriction requirement final. In making the restriction final, the examiner states that the inventions are distinct because different groups are all classified in different areas requiring different searches. The examiner states that the search for a radiation patternable material is different from a simple particle, or the process of forming that particle. The examiner states that the radiation patternable material is not required to be employed in a material or process as other groups are drawn to. Applicants continued to argue the restriction requirement in a response filed December 12, 2005. Applicants further amended the claims to have dependency from claim 1 for each claim. The examiner prepared a final action that was mailed on February 24, 2006 making the art rejection of elected Group I final, and did not respond to applicant's further restriction requirement arguments or amendments regarding such, except to state that despite amendment, the claims stand withdrawn.

On December 12, 2005, the instant petition under 37 CFR 1.181 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the separate groups are independent and distinct.

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DECISION

Sections 803 and 806.05(c) of the MPEP state:

803 Restriction - When Proper
Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(j). and § 809.03.

806.05(c) Criteria of Distinctness Between Combination and Subcombination
To support a requirement for restriction between combination and subcombination inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., there would be a serious search burden as evidenced by separate classification, status, or field of search. See MPEP § 808.02. The inventions are distinct if it can be shown that a combination as claimed: (A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and (B) the subcombination can be shown to have utility either by itself or in another materially different combination. When these factors cannot be shown, such inventions are not distinct.

806.05(f) Process of Making and Product Made
A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make another materially different product; or (B) that the product as claimed can be made by another materially different process.
Allegations of different processes or products need not be documented.
If applicant convincingly traverses the requirement, the burden shifts to the examiner to document a viable alternative process or product, or withdraw the requirement.

806.05(h) Product and Process of Using
A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process.

Upon review of the initial restriction requirement, the examiner's analysis of Groups I and III as related as product and process of use was flawed. Claim 1 of Group I is drawn to a radiation patternable functional material, while claim 38 of Group III is drawn to a radiation definable ink comprising the material of claim 1 and a solvent. Group III is not directed to a process at all, but rather a composition. Groups I and III are related as combination/subcombination, and as claim 38 requires all the particulars of the subcombination, distinctness cannot be shown. Therefore, Group I as originally restricted should have included claims 1-20, and 38-63.

Groups I and II were restricted as being unrelated. However, applicant amended claim 21 of Group II to be dependent upon claim 1 of Group I in response to the non-final action of August 11, 2005. These claims should now be rejoined with Group I as they can no longer be shown to be distinct inventions. While the restriction between these two groups may have been proper at the outset, the restriction requirement cannot be maintained in light of applicant's amendment. Furthermore, the examiner could have examined the new claims and still made a final rejection as they would have been newly presented claims.

Groups III and VI are indeed related as product and process of use, however, the examiner has not provided rational as to how these two groups are distinct. The examiner merely states that the ink of Group III is not required to be employed in the method of Group IV, and the method of Group VI does not require the use of the ink. According to 806.05(h) to show distinctness, the examiner must show either the process can be practiced with a materially different product, or the product may be used in a different process. The examiner's rational

fails to show either. Since the process is dependent upon the product (ink), it cannot be shown that the process may be performed with a different product. The examiner offered no alternative method in which the ink may be used and the requirement is incomplete.

Groups IV and V are methods of making Groups I and II, respectively. The examiner stated that the process of Group IV is generic and can be employed to prepare many other materials having different composition than that of Group I. Regarding Groups II and V, the examiner merely stated that the compound may be made by employing a different process and the process may be employed to prepare a different product. The examiner has provided no rational or hint of reasoning as to why the process of making the product and the product are independent and distinct. Merely stating that the inventions are independent or distinct because they can be made by a different process or made to form a different product does not properly meet the burden required to show patentable distinction. Therefore, for this reason alone, the restriction requirement is incomplete.

Inasmuch as a restriction requirement may be made, the examiner has not met the burden of showing patentable distinction.

In the response to the traversal of the restriction requirement, the examiner failed to specifically address any of the arguments set forth by Applicant. Instead, the examiner merely restated that the inventions are distinct because different groups are all classified in different areas requiring different searches. In fact, Applicants had set forth clear and persuasive arguments showing why at least some of the requirement was in fact in error. Because the examiner has not shown that the groups of claims are independent and distinct, the restriction requirement is not proper. Accordingly, the petition for withdrawal of the restriction requirement is **GRANTED.**

The application is being forwarded to the examiner to prepare a new office action in light of the withdrawal of the current restriction requirement. If the examiner intends to apply another restriction requirement, they are instructed to provide clear and concise reasoning for how the groupings are independent and distinct according to the MPEP guidelines stated above. Furthermore, at least claims 1-63 should be examined together for reasons outlined above.

Jacqueline M. Stone

Jacqueline M. Stone, Director
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Chemical and Materials Engineering

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 07/20/2010

Applicant	: Ali S. Sadri	: DECISION ON REQUEST FOR
Patent Number	: 7649833	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/749,903	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2003	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Thomas E. Ciotti
MORRISON & FOERSTER, LLP
755 Page Mill RD
Palo Alto, CA 94304-1018

MAILED

MAY 1 2 2005

Technology Center 2100

In re Application of:	)	
Peter S. Avritch	)	
Application No. 10/749,911	)	
Filed: December 30, 2003	)	**DECISION ON REQUEST FOR**
For: E-MAIL CERTIFICATION	)	**WITHDRAWAL AS ATTORNEY**
SERVICE	)	
	)	

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed October 18, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on February 7, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Beyer Weaver & Thomas LLP as the attorneys of record of the instant application. The Power Of Attorney of filed February 7, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Beyer Weaver & Thomas LLP.

For the above stated reasons, the request is DISMISSED AS MOOT.

No further communication to you regarding this application will be made.

for

Vincent N. Trans
Special Program Examiner 5/6/05
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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Beyer Law Group LLP
P.O. BOX 1687
Cupertino, CA 95015-1687

Mail Date: 04/20/2010

Applicant	: Peter S. Avritch	: DECISION ON REQUEST FOR
Patent Number	: 7653816	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/749,911	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **968** 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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THE BOC GROUP, INC.
575 MOUNTAIN AVE.
MURRAY HILL, NJ 07974

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OFFICE OF PETITIONS

In re Application of :
James Robert Clark :
Application No. 10/749,950 :
Filed: December 31, 2003 :
Attorney Docket No. M03A221 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed June 2, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 3, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

John K. Kim
McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102

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DEC 29 2004

OFFICE OF PETITIONS

In re Application of
Gennadi Fedorov, Frederick Hadtke
and Kiat-Cheong Toh
Application No. 10/749,953
Filed: December 31, 2003
Attorney Docket No. ROSE ART-40087
Title: BOARD ASSEMBLY

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the "PETITION UNDER 37 CFR 1.47(a)," filed October 6, 2004 (certificate of mailing Monday, October 4, 2004).

The petition is **GRANTED**.

The above-identified application was filed on December 31, 2003, with an unexecuted declaration. Accordingly, on August 3, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, rule 47 applicants filed the instant petition (and fee); the late surcharge; and a declaration executed by joint inventors Hadtke and Toh on behalf of themselves and on behalf of non-signing joint inventor Fedorov. Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventor Fedorov has refused to join in the application.

By statement of facts of patent attorney John Kim, and supporting documentary evidence, rule 47 applicants have shown that inventor Fedorov has, by his conduct, refused to join in the application. The petition includes the last known address of non-signing inventor Fedorov.

The declaration filed October 6, 2004, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application will be examined in Technology Center 3637 in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

10-15-08

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,293,993
Ser. No. : 10/749,953
Inventor(s) : Gennadi I. Fedorov, et. al.
Issued : November 13, 2007
Title : BOARD ASSEMBLY
Docket No. : ROSE ART-40087

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 *solèly* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: (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.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

McCarter & English, LLP
100 Mulberry Street
Newark, NJ 07102

UNITED STATES PATENT AND TRADEMARK OFFICE

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ZAKARYA A. MORSY
178 MADISON STREET
WILKES-BARRE, PA 18702

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SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of
Morsy
Application No. 10/749,970
Filed: June 12, 2004
For: MINI MIGHTY

ON PETITION

This decision concerns the June 12, 2004 correspondence captioned "Request." The correspondence asserts entitlement to a filing date of January 2, 2004 and requests refund of the petition fee, and is being properly treated as a petition under 37 CFR 1.53.

The petition is **DISMISSED.**

The application was deposited on January 2, 2004. As pointed out in the April 14, 2004 "Notice of Incomplete Nonprovisional Application" ("4/14/04 Notice"), this application has not been accorded a filing date because it was deposited without a specification or any claim.

The instant petition does not dispute the 4/14/04 Notice but, rather, encloses a specification, a claim and the $130 petition fee, rendering the application eligible for a June 12, 2004 filing date, i.e., the day that the specification and the claim were filed (see attached printout of 35 U.S.C. 111(a)(1), (4) and 112; 37 CFR 1.53(b)). The petition is thus **dismissed**. The application is hereby accorded the June 12, 2004 filing date rather than the requested January 2, 2004 filing date.

Since the instant petition is not necessitated by any error of the USPTO, the $130 petition fee will not be refunded.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 12, 2004, using the papers filed on that date and supplemented with the specification and claim filed with the instant petition.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763 (before September 15, 2004), or to the undersigned at (703) 306-5683 (before September 27, 2004) or (571) 272-3203 (after September 27, 2004).

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attachments: Printout of 35 U.S.C. 111(a)(1), (4) and 112; 37 CFR 1.53(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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KILPATRICK STOCKTON LLP
Patent Department – 53051
1001 West Fourth Street
Winston-Salem, NC 27101

MAILED
JUL 0 5 2005
Technology Center 2100

In re Application of:
David MARMAROS, et al.
Application No. 10/749,998
Filed: December 31, 2003
For: SYSTEMS AND METHODS FOR UNIFICATION OF SEARCH RESULTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed March 10, 2005.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on April 21, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Fenwick & West LLP as the attorney(s) of record of the instant application. The Power of Attorney of April 21, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Fenwick & West LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Mail Date: 04/20/2010

Applicant	: Claudio Taglienti	: DECISION ON REQUEST FOR
Patent Number	: 7610396	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/750,010	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1257** 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
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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NOV 07 2006
OFFICE OF PETITIONS

In re Application of	:	
Schmidt et al.	:	
Application No. 10/750,013	:	DECISION ON PETITION
Filed: 31 December, 2003	:	
Atty Docket No. 42P18015	:	

This is a decision on the petition filed on 18 August, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 5 April, 2006, for failure to timely reply to the non-final Office action mailed on 4 January, 2006, which set a three (3) month shortened statutory period for

[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)).

reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 7 August, 2006.

Petitioners have filed an amendment to the claims as the required reply.

The application is being referred to Technology Center Art Unit 2181 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

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APR 19 2005

OFFICE OF PETITIONS

In re Application of Vanderveen, Timothy W. Application No. 10/750,032 Filed: December 31, 2003 Attorney Docket No. 59429	: : : : :	ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 22, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 4, 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 July 5, 2004. A Notice of Abandonment was mailed on January 11, 2005.

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

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MARINA PORTNOVA
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025

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SEP 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Garg, et al.	:	
Application No. 10/750,046	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO WITHDRAW
Attorney Docket No. 005306.P103	:	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 25, 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4 Suite 201
Austin, TX 78759

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MAY 21 2004

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

In re Application of	:
Hans Petersen et al	:
Serial No.: 10/750,049	: PETITION TO MAKE SPECIAL
Filed: December 30, 2003	:
Attorney Docket No.: 05432/100M029	:

This is in response to applicants' petition filed March 16, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED

MAY 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Brian Alan Grove, et al.	:	
Application No. 10/750,052	:	ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 2043.036US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 17, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of September 29, 2009 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 30, 2009. See MPEP 1214.06. The Notice of Abandonment was mailed December 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This 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.

Terri Johnson
Petitions Examiner
Office of Petitions

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SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 07/02/2010

Applicant	: Gregor K. Frey	: DECISION ON REQUEST FOR
Patent Number	: 7644395	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/750,066	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1215** 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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Caven & Aghevli LLC
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/22/2010

Applicant	: Hong Jiang	: DECISION ON REQUEST FOR
Patent Number	: 7614054	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/750,090	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1524** 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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Caven & Aghevli LLC
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 05/18/2010

Applicant : Hong Jiang
Patent Number : 7614054
Issue Date : 11/03/2009
Application No : 10/750,090
Filed : 12/31/2003

: 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 **1559** 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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Alexandria, VA 22313-1450
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Brian E. Powley
Brian E. Powley, P.L.L.C.
P.O. Box 720415
Oklahoma City OK 73172-0415

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OFFICE OF PETITIONS

In re Application of Mauldin :
Application No. 10/750,108 :
Filing Date: December 31, 2003 :
For: Minimal Resistance Scallop for :
a Well Perforating Device :

Decision on Petition

This is a decision on the petition filed September 5, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

A final Office action was mailed December 6, 2005.

A request for a one-month extension of time was filed March 6, 2006.

An amendment was filed April 6, 2006.

An advisory action was mailed May 4, 2006. A supplemental advisory action was mailed May 17, 2006. Petitioner received neither Office action.

A Notice of Abandonment was mailed July 19, 2006.

The instant petition contends the application is not abandoned.

The application is not abandoned if petitioner filed a timely and proper reply to the final Office action. The reply filed April 6, 2006, was timely. However, the reply was not a proper reply to the final Office action. Applicant was required to file one of three things with the office in order to avoid abandonment of the application:

(1) an amendment which *prima facie* placed the case in condition for allowance,
(2) a Notice of Appeal and the required fee, or
(3) a RCE.

Although petitioner filed an amendment on April 6, 2006, the examiner determined the amendment failed to place the application in conditional for allowance. Therefore, the application is abandoned.

Although the non-receipt of the advisory actions is regrettable, the non-receipt does not change the fact a proper reply was not filed in response to the final Office action within the time period set forth in the final Office action. The Office is under no obligation to advise an applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[1] Proof of failure to receive notice of a deficiency in an amendment is not sufficient to prove an application is not abandoned.

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 ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

A fee is not required for a petition to withdraw the holding of abandonment. Petitioner may request the fee be applied towards any fee required for a petition under 37 CFR 1.137(b) in the future. In the alternative, if petitioner does not wish to continue to seek revival of the application, petitioner may request a refund of the $400. A request for a refund may be sent to: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany any request for refund.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

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

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: Form PTO/SB/64

---

[1] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Brian E. Powley
Brian E. Powley, P.L.L.C.
P.O. Box 720415
Oklahoma City OK 73172-0415

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AUG 0 8 2007

OFFICE OF PETITIONS

In re Application of Mauldin :
Application No. 10/750,108 : Decision on Petition
Filing Date: December 31, 2003 :
For: Minimal Resistance Scallop for :
a Well Perforating Device :

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 2007, to revive the above-identified application.

The petition is **granted**.

A final Office action was mailed December 6, 2005. The Office action set a shortened statutory period for reply of three (3) months.

A request for a one-month extension of time was filed March 6, 2006.

An amendment was filed April 6, 2006.

An advisory action was mailed May 4, 2006. A supplemental advisory action was mailed May 17, 2006. Petitioner received neither Office action.

A Notice of Abandonment was mailed July 19, 2006.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $750. Petitioner has submitted a reply to the final Office action in the form of a Notice of Appeal. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

On September 6, 2006, petitioner submitted a fee of $400 for a petition to withdraw the holding of abandonment. A fee is unnecessary for a petition to withdraw the holding of abandonment. The decision on the petition stated the $400 could be applied towards the $750 petition fee for a

petition under 37 CFR 1.137(b). However, petitioner submitted the full $750 fee on April 6, 2007. Therefore, the Office has scheduled a refund of the $400.

The $250 fee for the Notice of Appeal was paid September 6, 2006, and paid a second time on April 6, 2006. The Office has scheduled a refund of the $250 overpayment.

The Notice of Appeal filed April 6, 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.

Technology Center Art Unit 3672 will be informed of the instant decision and will await the filing of an appeal brief or other proper paper.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John C. Alemanni
Patent Department-53051
KILPATRICK STOCKTON LLP
1001 West Fourth Street
Winston-Salem, NC 27101

MAILED

JUN 2 5 2005

Technology Center 2100

In re Application of:
Stephen Lawrence et al.
Application No. 10/750,109
Filed: December 31, 2003
For: SYSTEMS AND METHODS FOR CONSTRUCTING A QUERY RESULT SET

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 10, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Michelle R. Easer for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
(571) 272-3616

cc: Sabra-Anne R. Truesdale
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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RG and Associates
1103 Twin Creeks
Allen, TX 75013

Mail Date: 05/20/2010

Applicant	: Alan Keith Bartky	: DECISION ON REQUEST FOR
Patent Number	: 7621162	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/750,120	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1192** 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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GARLICK, HARRISON & MARKISON (ALU)
P.O. BOX 160727
AUSTIN, TX 78716-0727

Mail Date: 07/23/2010

Applicant	: Robert Burnett	: DECISION ON REQUEST FOR
Patent Number	: 7650073	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/750,123	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1110** 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 : 12/18/08

TO SPE OF : ART UNIT 2419

SUBJECT : Request for Certificate of Correction for Appl. No.: 10750130 Patent No.: 7433310 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571 270 9990

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Hassan Kizou [signature], SPE 2419

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of	:	
Mineo Yamakawa, et al.	:	
Application No. 10/750,141	:	DECISION ON PETITION
Filed: December 31, 2003	:	TO WITHDRAW
Attorney Docket No. 21058/0206675-US0	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed April 6, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on May 29, 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: RAJ S. DAVE', PHD
DARBY & DARBY, PC
1500 K STREET, NW
SUITE 250
WASHINGTON, DC 20005-1714

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CLIENT 21058
C/O DARBY & DARBY, PC
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

In re Application of	:	
Mineo Yamakawa, et al.	:	
Application No. 10/750,141	:	DECISION ON PETITION
Filed: December 31, 2003	:	TO WITHDRAW
Attorney Docket No. 21058/0206675	:	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 13, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Client 21058 C/O Darby & Darby, PC has been revoked by the assignee of the patent application on August 19, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: INTEL CORPORATION
2200 MISSION COLLEGE BLVD.
SANTA CLARA, CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 110304

TOLER & LARSON & ABEL L.L.P.
5000 Plaza on the Lake, STE 265
Austin, TX 78746

NOV 17 2004

In re Application of:	:	
KNOLL *et al.*	:	DECISION ON PETITION
Serial No.: 10/750,144	:	TO MAKE SPECIAL
Filed: December 31, 2003	:	
Attorney Docket No.: **1014-SP230**	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed May 12, 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 Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item IX: Special status for patent applications relating to superconductivity.

A grantable petition to make an application special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IX, for an invention that relates to superconductivity materials, should be accompanied by a statement under 37 CFR 1.102 that the invention involves superconductive materials.

Accompanying the petition is a statement by Jeffrey S. Abel that the invention involves superconductive materials.

For the above stated reasons, the petition is GRANTED.

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 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 LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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TOPE-MCKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY #311
MALIBU, CA 90265

Mail Date: 04/21/2010

Applicant	: Martin Buehler	: DECISION ON REQUEST FOR
Patent Number	: 7578912	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/750,162	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1591** 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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KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER - SUITE 1350
1628 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PA 19103

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JAN 14 2008

OFFICE OF PETITIONS

In re Application of Richard L. Franklin Application No. 10/750,184 Filed: December 31, 2003 Attorney Docket No. ARC-1001USCON1	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 23, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the applications, as set forth in the concurrently filed amendment. The delay in responding is regretted.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 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 rule at 37 CFR § 1.78(a)(3) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office
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 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.

This application is being to referred Technology Center Art Unit 1648, 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 prior-filed applications.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

David Bucci
Petitions 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
10/750,184	12/31/2003	1648	920	ARC-1001USCON1	20	3

CONFIRMATION NO. 4994

CORRECTED FILING RECEIPT

21302
KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER
SUITE 1350, 1628 JOHN F KENNEDY BLVD
PHILADELPHIA, PA 19103

OC000000027650141

Date Mailed: 01/10/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Richard L. Franklin, London, UNITED KINGDOM;

Power of Attorney: The patent practitioners associated with Customer Number 21302

Domestic Priority data as claimed by applicant

This application is a CON of 09/549,642 04/14/2000 ABN
which is a DIV of 09/303,375 04/30/1999 ABN
which is a CIP of 08/600,273 02/08/1996 PAT 5,958,406
which is a CIP of 08/486,820 06/07/1995 PAT 6,030,612
which is a CIP of 08/385,540 02/08/1995 PAT 5,945,102
which is a CIP of 08/338,501 11/22/1994 ABN
which is a CON of PCT/SE93/00455 05/21/1993

Foreign Applications

SWEDEN 9201628-6 05/22/1992

If Required, Foreign Filing License Granted: 05/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/750,184**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Removing dental plaque with krill enzymes

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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JOHN W. RYAN
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Richard L. Franklin	:	DECISION ON PETITION
Application No. 10/750,184	:	TO WITHDRAW
Filed: December 31, 2003	:	FROM RECORD
Attorney Docket No. ARC-1001USCON1	:	

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 14, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on April 7, 2006 the power of attorney to Crowell & Moring LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Knoble, Yoshida & Dunleavy
Eight Penn Center
Suite 1350
1628 John F Kennedy Blvd
Philadelphia PA 19103

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DAVIS WRIGHT TREMAINE LLP - SANDISK CORPORATION
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

Applicant	: Carlos J. Gonzalez	: DECISION ON REQUEST FOR
Patent Number	: 7631138	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/750,190	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **572** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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J. ANDREW MCKINNEY, JR.
JONES, TULLER & COOPER, P.C.
P.O. BOX 2266 EADS STATION
ARLINGTON VA 22202

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Flanders et al.	:	DECISION ON PETITION
Application No. 10/750,214	:	TO WITHDRAW
Filed: January 2, 2004	:	FROM RECORD
Attorney Docket No. 1538.110NP	:	

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 17, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on February 27, 2006 the power of attorney was revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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APR 12 2007

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of MYERS ET AL.
Appl. No.: 10/750,224
Filed: December 31, 2003
For: SOLID-STATE IMAGE PICKUP DEVICE, AND MANUFACTURING METHOD THEREOF

WITHDRAWAL FROM ISSUE *37 CFR 1.313*

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

The issue fee is refundable upon written request. If however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Sharon Gibson
Director
Patent Examining Technology Center 2800

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MR. STEPHEN E. BONDURA
DORITY & MANNING, P.A.
P.O. BOX 1449
GREENVILLE, SC 29602

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OFFICE OF PETITIONS

In re Application of	:	
Lewis et al.	:	
Application No. 10/750,238	:	DECISION ON PETITION
Filed: December 31, 2003	:	
Attorney Docket No. KCX-1173 (19507)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3654 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No.

GROSSMAN & FLIGHT, LLC
20 N. WACKER DRIVE
SUITE 4220
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Bo Yeoun Jo	:	
Application No. 10/750,246	:	DECISION ON PETITION
Filed: December 31, 2003	:	
Atty Docket No. 20059/PIA31075	:	

This is a decision on the petition filed June 29, 2004, requesting that the above-identified application be accorded a December 31, 2003 filing date and that the Office acknowledge that the correct drawings were received on that date.

The application was deposited on December 31, 2003. However, on May 10, 2004, the Office mailed a "Notice to File Corrected Application Papers" stating that the application had been accorded a filing date; however, figures 1A, 1B, 1C, and 1D described in the specification appeared to have been omitted. (In addition, substitute drawings in compliance with 37 CFR § 1.84 were required.)

In response, the present petition was filed. Applicant states that the application as filed erroneously included superfluous Figures 1- 3D. However, applicant contends that the correct drawings were present in the application on filing by virtue of their presence in the accompanying certified copy of the Korean Patent Application. Applicant submits, what he indicates are, copies of the drawings in English (3 sheets of drawings containing figures 1A, 1B, 1C, 1D and 2).

A review of the record confirms that five (5) sheets of drawings were submitted with the application papers on December 31, 2003. However, a review of the drawings reveals that the five (5) sheets of drawings contain Figures 1, 2A, 2B, 2C, 2D, 2E, 2F, 3A, 3B, 3C, and 3D. Yet, the brief description of drawings and the body of the specification for this application describe drawings of Figures 1A, 1B, 1C, 1D and 2 directed to a process of an MIM semiconductor device. Clearly, the five (5) sheets of drawings filed with this application are not the drawings intended for this application. Therefore, the application, as filed, is considered as though it was filed without drawings.

A further review of the record reveals that the application papers, deposited December 31, 2003, included a priority document, which contained two (2) sheets of drawings. The three (3) sheets of drawings submitted June 29, 2004, are not identical to the two (2) sheets of drawings in the priority document submitted December 31, 2003. The drawings in the priority document are in the Korean language. The drawings in the priority document will be construed as the drawings for this application for filing date purposes.

The five (5) sheets of drawings, which contain Figures 1, 2A, 2B, 2C, 2D, 2E, 2F, 3A, 3B, 3C, and 3D, submitted on December 31, 2003, are considered withdrawn and will not be entered or used during the prosecution of this application.

To the extent indicated herein, the petition is **GRANTED**.

The petition fee will not be refunded since the present petition and petition fee were necessary in view of applicant's filing error.

Receipt of the preliminary amendment to the specification filed June 29, 2004, is acknowledged. See 35 U.S.C. 132.

The application file will be returned to the Office of Initial Patent Examination for

- processing with a filing date of December 31, 2003, and an indication in Office records that two (2) sheets of drawings were present on filing (in Korean); and
- review of the drawings filed June 29, 2004 as replacement drawings.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MILLS LAW FIRM, PLLC
P.O. BOX 1245
CARY, NC 27512-1245

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OCT 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Ronald Harrison :
Application No. 10/750,272 : DECISION GRANTING PETITION
Filed: January 2, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. P-6214-04-03 :

This is a decision on the petition, filed September 30, 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 March 29, 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 3, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This matter is being referred to Technology Center Art Unit 3726 for examination in due course.

Wan Laymon

Wan Laymon
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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Ishman Law Firm P.C.
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Cary, NC 27512-1245

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OFFICE OF PETITIONS

In re Application of

Ronald Harrison

Application No. 10/750,272

Filed: January 2, 2004

Attorney Docket No. P-6214-04-03

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), October 6, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely file corrected drawings as required by the Notice of Allowability (the "Notice") mailed May 24, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on August 25, 2006. A Notice of Abandonment was mailed September 28, 2006.

Corrected drawings were received on October 6, 2006.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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ARTHROCARE CORPORATION
680 VAQUEROS AVENUE
SUNNYVALE, CA 94085-3523

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OFFICE OF PETITIONS

In re Application of	:	
Seth A. Foerster	:	
Application No. 10/750,287	:	ON PETITION
Filed: December 31, 2003	:	
Attorney Docket No. A-1610CON2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed March 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 $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of an amendment, filed July 10, 2006, which is treated as being submitted prior to payment of the issue and publication fees.

This application is being referred to Technology Center Art Unit 3731, for consideration of the amendment.

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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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Peiguang Zhou	: DECISION ON REQUEST FOR
Patent Number	: 7601657	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/750,295	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **83** 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
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Xing, Su, et al.	:	
Application No. 10/750,301	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO WITHDRAW
Attorney Docket No. 070702007400	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed April 2, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on June 16, 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: RAJ S. DAVE', PHD
DARBY & DARBY, PC
1500 K STREET NW
SUITE 250
WASHINGTON, DC 20005-1714

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MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of :

BERLIN, et al. :
Application No. 10/750,315 :
Filed: December 30, 2003 :
Attorney Docket No. **070702007900** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 23, 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 Peter J. Davis 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 15, 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: **ANDREW BERLIN**
1789 DALTON PLACE
SAN JOSE, CA 95054

cc: **DARBY & DARBY PC**
1500 K STREET NW, SUITE 250
WASHINGTON, DC 20005-1714

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EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
Jae-Geun Oh et al	:	
Application No. 10/750,318	:	DECISION GRANTING PETITION
Filed: December 30, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 00939H-087500US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of November 29, 2005, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2891.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 16, 2007

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No. 10/750328 patent No.: 7142767

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** EK — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

2874

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 16, 2007

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No. 10/750328 patent No.: 7142767

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: _____

2874

SPE **Art Unit**

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FROM DIRECTORS OFFICE

AUG 0 3 2004

TECHNOLOGY CENTER 3600

Calif Kip Tervo
6387 Caminito Lazaro
San Diego, CA 92111

In re application of Lewis A. Correia Application No. 10/750,343 Filed: December 31, 2003 For: SAFE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on December 31, 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. Lewis A. Correia 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: 7/20/04

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P.O. BOX 4110
MIDDLETOWN NJ 07748

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JAN 07 2005

OFFICE OF PETITIONS

In re Application of
Michael Palumbo, John Baross, and Mark P. Evans
Application No. 10/750,362
Filed: December 31, 2003
Attorney Docket No. ATT/2003-0254
Title: METHOD AND SYSTEM FOR RECEIVING DIGITAL CONTENT USING A PREPAID DIGITAL CONTENT CARD

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed October 29, 2004[2].

On December 31, 2003, the application was deposited, identifying Michael Palumbo, John Baross, and Mark P. Evans as joint inventors. The application was deposited without an oath or declaration. On April 27, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that the basic filing fee, an executed oath

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 The petition contains a certificate of mailing dated October 27, 2004.

or declaration, and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

Along with the instant petition, Petitioner has submitted the petition fee, the surcharge, the basic filing fee, and a four-month extension of time. Petitioner has also included a declaration that has been executed by each of the joint inventors save inventor Baross.

The petition has met requirements (1) – (3) and (5) above.

Regarding the fourth requirement, petitioner has not shown that a *complete* copy of the application was sent to the non-signing inventor. Petitioner has stated that only the declaration and the assignment were sent to the non-signing inventor. Petitioner has further included copies of an e-mail and a letter which were sent to the non-signing inventor, and both state that only the declaration and the assignment were enclosed. No mention is made of a copy of the application. Had the application been included, it seems that it would have been mentioned in the petition, the e-mail, and the letter. As such, it is clear that the Rule 47 applicant did not present the inventor with a copy of the entire application.

It follows that one cannot refuse to sign something which one has not been presented with. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[3].

For these reasons, the petition under 37 C.F.R. §1.47(A) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[4], hand-delivery[5], or facsimile[6].

---

3 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

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 will be retained in the Office of Petitions for two (2) months.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Kin-Wah Tong
Moser Patterson and Sheridan LLP
595 Shrewsbury Avenue 1st Floor
Schrewsbury, NJ 07702

---

5 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.
6 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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OFFICE OF PETITIONS

In re Application of
Michael Palumbo, John Baross, and Mark P. Evans
Application No. 10/750,362
Filed: December 31, 2003
Attorney Docket No. ATT/2003-0254
Title: METHOD AND SYSTEM FOR RECEIVING DIGITAL CONTENT USING A PREPAID DIGITAL CONTENT CARD

DECISION ON RENEWED PETITION

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed March 7, 2005.

On December 31, 2003, the application was deposited, identifying Michael Palumbo, John Baross, and Mark P. Evans as joint inventors. The application was deposited without an oath or declaration. On April 27, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that the basic filing fee, an executed oath

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

or declaration, and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

Along with the original petition, Petitioner submitted the petition fee, the surcharge, the basic filing fee, and a four-month extension of time. Petitioner also included a declaration that has been executed by each of the joint inventors save inventor Baross.

The original petition, submitted on October 29, 2004, was dismissed via the mailing of a decision on January 7, 2005, for failure to establish that a complete copy of the application was sent to the non-signing inventor.

With this renewed petition, Petitioner has established that on January 28, 2005, a complete copy of the application was sent to **16** Pleasant Grove Road, Long Valley, NJ, 07853-3444.

Unfortunately, the last-known address for the non-signing inventor, as set forth in the original petition, is **126** Pleasant Grove Road, Long Valley, NJ, 07853-3444.

It is noted that Petitioner has included a copy of the express mail label associated with the letter of January 28, 2005, and this letter was addressed to the 16 Pleasant Grove address. The numbers "126" are handwritten and circled next to the delivery address, but the incorrect number "16" is not crossed out.

Petitioner has included a copy of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) tracking results, but when the undersigned ran the same search, a different result was obtained. The search performed by the undersigned shows that the package was accepted on February 9, 2005 and signed for by one J. Hunter. A copy of this search result is enclosed. Since the letter and the express mail label each bear the wrong address, and the package was signed for by one other than the non-signing inventor, it appears that the package was both addressed and delivered to the wrong address.

For these reasons, the renewed petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[2], hand-delivery[3], or facsimile[4].
The application file will be retained in the Office of Petitions for two (2) months.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Printout of the USPS online tracking results

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.
4 (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, which could be as much as one month.

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JUN 0 8 2005

OFFICE OF PETITIONS

In re Application of
Michael Palumbo, John Baross, and Mark P. Evans
Application No. 10/750,362
Filed: December 31, 2003
Attorney Docket No. ATT/2003-0254
Title: METHOD AND SYSTEM FOR RECEIVING DIGITAL CONTENT USING A PREPAID DIGITAL CONTENT CARD

DECISION ON SECOND RENEWED PETITION

This is in response to the second renewed petition under 37 C.F.R. §1.47(a)[1], filed May 20, 2005.

On December 31, 2003, the application was deposited, identifying Michael Palumbo, John Baross, and Mark P. Evans as joint inventors. The application was deposited without an oath or declaration. On April 27, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that the basic filing fee, an executed oath

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

or declaration, and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

Along with the original petition, Petitioner submitted the petition fee, the surcharge, the basic filing fee, and a four-month extension of time. Petitioner also included a declaration that has been executed by each of the joint inventors save inventor Baross. The original petition, submitted on October 29, 2004, was dismissed via the mailing of a decision on January 7, 2005, for failure to establish that a complete copy of the application was sent to the non-signing inventor.

The renewed petition was received on March 7, 2005, and was dismissed via the mailing of a decision on March 18, 2005 for failure to establish that a complete copy of the application was sent to the non-signing inventor.

With the present petition, it has been established that a complete copy of the application was sent to the non-signing inventor. As such, the petition under 37 C.F.R. §1.47(b) is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

In re Application of	:	
Vasudevan Srinivasan, et al.	:	
Application No. 10/750,395	:	ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 42P18068	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 7, 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 July 24, 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. Accordingly, the date of abandonment of this application is October 25, 2007. The Notice of Abandonment was mailed February 7, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2192 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

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/05/2010

Applicant	: Vasudevan Srinivasan	: DECISION ON REQUEST FOR
Patent Number	: 7617488	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/750,395	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1257** 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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KIMBERLY-CLARK WORLDWIDE, INC.
Tara Pohlkotte
2300 Winchester Rd.
NEENAH, WI 54956

Mail Date: 04/21/2010

Applicant	: Paul T. Van Gompel	: DECISION ON REQUEST FOR
Patent Number	: 7658732	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/750,402	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **700** 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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BLAKELY SOKOLOFF
TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

In re Application of :
Sumeet Sandhu : DECISION ON PETITION
Application No. 10/750,408 :
Filed: December 31, 2003 :
Atty Docket No. 042390.P18465 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed June 3, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) filed January 8, 2008. This Office communication set a one (1) month period for reply, with extensions of time obtainable under § 1.136(a). No reply was received and no extension of time was obtained. The application became abandoned on February 9, 2008. A courtesy Notice of Abandonment was mailed on May 16, 2008.

The petition includes the required reply in the form of an amendment, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required.

Technology Center AU 2611 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment submitted on petition filed June 3, 2008.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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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Pillsbury Winthrop Shaw Pittman LLP
(INTEL)
P.O. Box 10500
McLean, VA 22102

Mail Date: 04/20/2010

Applicant	: Sumeet Sandhu	: DECISION ON REQUEST FOR
Patent Number	: 7573946	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/750,408	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1218** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Pillsbury Winthrop Shaw Pittman LLP
(INTEL)
P.O. Box 10500
McLean, VA 22102

Mail Date: 05/17/2010

Applicant : Sumeet Sandhu
Patent Number : 7573946
Issue Date : 08/11/2009
Application No : 10/750,408
Filed : 12/31/2003

: 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 **1294** 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

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA
CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD CT 06877-0368

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of

Meulenberg, et al.

Application No. 10/750,409

Filed: December 30, 2003

Attorney Docket No. 2183-4041.4US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely response to the final Office action mailed November 19, 2007, which set a shortened statutory period for reply of three-months from its mailing date. A response was filed on April 21, 2008, with a request for an extension of time within the second month. The response did not place the application in condition for allowance as indicted by a notice mailed May 29, 2008. The application became abandoned on April 20, 2008.

The Request for Continued Examination filed June 3, 2008, is noted.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being

mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center 1600, GAU 1648 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

cc:
Tracey S. Truitt
Polsinelli Shalton Flanigan Suelthaus
700 W. 47th Street
Suite 1000
Kansas City, MO 64112

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WOOD, HERRON & EVANS, L.L.P.
2700 Carew Tower
441 Vine St.
Cincinnati OH 45202

MAILED
JUL 14 2010
OFFICE OF PETITIONS

In re Patent of	:	DECISION ON REQUEST
Fago et al.	:	FOR
Patent No. 7,621,892	:	RECONSIDERATION OF
Issue Date: November 24, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/750,427	:	and
Filed: December 31, 2003	:	NOTICE OF INTENT TO ISSUE
Docket No. L-F/217/273	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 24, 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 six hundred sixty-nine (669) 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 six hundred sixty-nine (669) 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 January 1, 2007 and ends on October 30, 2007, the day before the RCE was filed, and is 303 (not 304) days. *See* 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 668, not 669 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 **six hundred sixty-eight (668)** days.

Telephone inquiries specific to this matter 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 : 7,621,892 B2

DATED : **November 24, 2009** **DRAFT**

INVENTOR(S) : Fago et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 425 days

Delete the phrase "by 425 days" and insert – by 668 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN BRUCKNER, P.C.
P.O. BOX 490
FLAGSTAFF AZ 86002

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OCT 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Smith et al.	:	
Application No. 10/750,432	:	DECISION ON PETITION
Filed: December 31, 2003	:	
Attorney Docket No. UBAT1110	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed February 20, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 21, 2008. A Notice of Abandonment was mailed August 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2611 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.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NEW YORK 11791

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SEP 10 2004

OFFICE OF PETITIONS

NOTICE

In re Application of :
S. Steinemann :
Application No. 10/750,446 :
Filed: December 31, 2003 :
Attorney Docket No. 1409-2 RCE/CON :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the undersigned at (703) 305-8859.

This file 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DANIEL A. SCOLA, JR.
HOFFMAN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

MAILED

FEB 19 2010

OFFICE OF PETITIONS

In re Application of :
Samuel STEINEMANN :
Application No. 10/750,446 : NOTICE UNDER 37 CFR 1.28(C)
Filed: December 31, 2003 :
Attorney Docket No. **1409-2 RCE/CON** :

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**.

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.

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) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **BENJAMIN J. HAUPTMAN**
FOWF HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD, SUITE 310
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

STRAUB & POKOTYLO
620 TINTON AVENUE
BLDG. B, 2ND FLOOR
TINTON FALLS NJ 07724

In re Application of :

Ross KONINGSTEIN, et al. :
Application No. 10/750,451 : DECISION ON PETITION
Filed: December 31, 2003 : TO MAKE SPECIAL
For: **SUGGESTING AND/OR PROVIDING TARGETING CRITERIA FOR ADVERTISEMENTS** :

This is a decision on the petition filed October 18, 2004, under 37 CFR §1.102(d) to make the application special and treated as pursuant to MPEP §708.02, section II (Infringement),.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) 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
(3) 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. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

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 is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091125

DATE : November 25, 2009

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7585990

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:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621