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DIW Jan-08

RICHARD C. CALDERWOOD
2775 NW 126TH AVE
PORTLAND OR 97229-8381

COPY MAILED

JAN 04 2008

OFFICE OF PETITIONS

In re Application of :
Enrique M. Stiles :
Application Number: 10/750468 : DECISION ON PETITION
Filing Date: 12/31/2003 :
Attorney Docket Number: STEP004 :

This is a decision on the petition filed on November 23, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on May 22, 2007, for failure to timely submit a reply to the non-final Office action mailed on February 21, 2007, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on September 25, 2007.

Receipt of the amendment filed with the present petition is acknowledged.

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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)).

The application is being referred to Technology Center Art Unit 2615 for further processing.

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

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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PORTLAND OR 97229-8381

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OCT 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Enrique M. Stiles	:	
Application No. 10/750,468	:	DECISION ON PETITION
Filed: December 31, 2003	:	
Attorney Docket No. STEP004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 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 May 6, 2008, as required by the Notice of Allowance and Fee(s) Due mailed February 6, 2008. Accordingly, the date of abandonment of this application is May 7, 2008. A Notice of Abandonment was mailed June 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and the publication fee of $300.00; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

CORNING INCORPORATED
SP-TI-3-1
CORNING NY 14831

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey M. Amsden, Gildas	:	
Boulc'h, Achim K. Heibel, and	:	
Neil E. Partridge	:	
Application No. 10/750,472	:	
Filed: December 31, 2003	:	DECISION ON PETITION
Attorney Docket No. SP03-159	:	PURSUANT TO 37 C.F.R.
Title: MULTI-TUBULAR REACTORS	:	§1.47(A)
WITH MONOLITHIC CATALYSTS	:	

This is in response to the petition pursuant to 37 C.F.R. §1.47(a)[1], filed May 28, 2004.

1A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $200;
(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 C.F.R. § 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 C.F.R. § 1.63.

The Office regrets the extended period of delay in issuing this decision.

On December 31, 2003, the application was filed, identifying Jeffrey M. Amsden, Gildas Boulc'H, Achim K. Heibel, and Neil E. Partridge as joint inventors. The application was deposited without a fully executed oath or declaration. On May 3, 2004, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required. This Notice set a two-month period for reply.

Along with the present petition, Petitioner has submitted a declaration that has been executed by each of the joint inventors save Mr. Boulc'h, the associated surcharge, the petition fee, the last known address of Mr. Boulc'h, a declaration of facts, and copies of a letter and e-mails.

Petitioner has established that a complete copy of the application was sent to the non-signing inventor, and that a response has not been received.

Petitioner has met each of the five requirements of Rule §1.47(a), and has submitted all required fees. Therefore, the petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

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 present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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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RYNDAK & SURI LLP
200 W. MADISON STREET
SUITE 2100
CHICAGO IL 60606

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SEP 25 2006
OFFICE OF PETITIONS

In re Application of :
Narini, et al. :
Application No. 10/750,477 : ON PETITION
Filed: December 31, 2003 :
Attorney Docket No. 40276-10103 :
For: FLUID CONTAINMENT DEVICE

This is a decision on the petition, filed May 30, 2006 (certificate of mailing date May 24, 2006), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the August 25, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on November 26, 2005. A Notice of Abandonment was mailed on March 15, 2006.

Applicants have submitted an amendment and drawing in reply to the August 25, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 25, 2005 non-final Office action, and the petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that petitioner has no knowledge that the delay was in fact unintentional, petitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition is **GRANTED**.

The revocation/power of attorney filed with the instant petition has been entered and made of record. All future correspondence pertaining to this application will be mailed to the above-identified correspondence address of record.

After the mailing of this decision the application will be forwarded to Technology Center AU 3761 for consideration of the amendment and drawing filed on May 30, 2006 (certificate of mailing date May 24, 2006).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Eric C. Hannah	: DECISION ON REQUEST FOR
Patent Number	: 7612370	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/750,488	: 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 **1148** 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
10/750,492	12/31/2003	2863	1080	134486/068709-046	8	30	3

CONFIRMATION NO. 1807

CORRECTED FILING RECEIPT

OC000000019887776

29391
BEUSSE WOLTER SANKS MORA & MAIRE, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO, FL 32801

Date Mailed: 08/03/2006

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)

Narendra Amalendu Soman, Niskayuna, NY;
Murali Mohan Reddy Nagella, Andhra Pradesh State, INDIA;
N. Deva Prasanna Kumar, Andhra Pradesh State, INDIA;
Chandrakant NaikTari, Goa, INDIA;

Power of Attorney:

Henry Policinski--26621
Carl Rowold--29023
John DeAngelis Jr--30622
Ann Agosti--37372
Michael Gnibus--38162
Catherine Winter--38364
Scott Hayden--41821

Domestic Priority data as claimed by applicant

This application is a CIP of 10/065,742 11/14/2002 PAT 6,826,510

Foreign Applications

If Required, Foreign Filing License Granted: 05/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/750,492

Projected Publication Date: 11/09/2006

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for machine vector loop extraction

Preliminary Class

702

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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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. None

BEUSSE WOLTER SANKS MORA & MAIRE, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of :
Narendra Amalendu Soman et al. :
Application No. 10/750,492 :
Filing Date: December 31, 2003 :
Attorney Docket No.: :
134486/068709-046 :
Title: METHOD AND APPARATUS FOR :
MACHINE VECTOR LOOP EXTRACTION :

DECISION ON PETITION
UNDER 37 C.F.R. §1.78(a)(3)

This is a decision on the petition under 37 C.F.R § 1.78(a)(3) filed September 16, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of nonprovisional application number 10/065,742, filed November 14, 2002, which issued as U.S. Patent number 6,826,510 on November 30, 2004, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR §1.78(a)(2)(i) 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 present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed non-provisional application is submitted after expiration of the period specified in 37 CFR §1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR §1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR §1.78(a)(3) in that (1) a reference to the above-noted, prior-filed non-provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

A corrected Filing Receipt, which includes the priority claim to the prior-filed non-provisional application, accompanies this decision on petition. Technology Center Art Unit 2863 will be notified of this decision, so that appropriate action can be taken on the amendment filed with this petition, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional application.

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
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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INGRASSIA FISHER & LORENZ
7150 E. CAMELBACK, STE. 325
SCOTTSDALE AZ 85251

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JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Sarkis Barkhoudarian	:	
Application No. 10/750,512	:	DECISION ON PETITION
Filed: December 31, 2003	:	TO WITHDRAW
Attorney Docket No. 024.0046 (03-0640)	:	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 16, 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 there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on December 30, 2005.

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

cc: dp

PRATT & WHITNEY
ATTN: F. TYLER MORRISON
400 MAIN STREET, MS 132-13
OFFICE BUILDING G
EAST HARTFORD CT 06108

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KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS MN 55415-1002

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OFFICE OF PETITIONS

In re Application of	:	
Sarkis Barkhoudarian	:	
Application No.: 10/750512	:	DECISION ON
Filing or 371(c) Date: 12/31/2003	:	PETITION
Attorney Docket Number: U73.12-0064	:	

This is a decision in response to the Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed September 20, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the final office action, mailed December 30, 2005. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. Applicant filed an Amendment and one (1) month extension of time on April 28, 2006, however, the amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed August 9, 2006. No complete and proper reply having been received, the application became abandoned on March 31, 2006.

Applicant files the instant petition and RCE, and amendment. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 2863 for processing of the Amendment filed with the petition.

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

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Darby & Darby
P.O. Box 5257
New York NY 10150-5257

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DEC 28 2004

OFFICE OF PETITIONS

In re Application of	:	
Kavoori et al.	:	DECISION ACCORDING STATUS
Application No. 10/750,532	:	UNDER 37 CFR 1.47(a)
Filed: December 30, 2003	:	
Attorney Docket No. 04303/100N160-US2	:	

This is in response to the petition under 37 CFR 1.47(a), filed November 29, 2004.[1]

The petition is granted.

Petitioner has shown that David M. Holmes, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Laura C. Brutman establishes that the inventor was presented with the application papers, including the specification, claims and drawings, but refused the request that he sign the declaration.

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

The application is being referred to Technology Center Art Unit 2122 for further processing.

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[1] Petitioner obtained a five-month extension of time to reply. Accordingly, the petition is filed timely. Additionally, petitioner submitted $130.00 for the petition fee. However, the current petition fee is $200.00. Therefore, the difference of $70.00 was charged to Deposit Account No. 04-0100, as authorized.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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David M. Holmes
21696 Noonan Court
Cupertino CA 95014

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DEC 28 2004

OFFICE OF PETITIONS

In re Application of
Kavoori et al.
Application No. 10/750,532
Filed: December 30, 2003
Attorney Docket No. 04303/100N160-US2

LETTER

Dear Mr. Holmes:

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Darby & Darby
P.O. Box 5257
New York NY 10150-5257

UNITED STATES PATENT AND TRADEMARK OFFICE

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Weaver Austin Villeneuve &
Sampson LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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MAR 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,445,926	: DECISION ON REQUEST
Mathies et al.	: FOR
Issue Date: November 4, 2008	: RECONSIDERATION OF
Application: 10/750,533	: PATENT TERM ADJUSTMENT
Filed: December 29, 2003	:
Attorney Docket No. UCALP020	:
Title: Fluid Control Structures	:
In Microfludic Devices	:
	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)" filed December 30, 2008. Patentees request that the patent term adjustment indicated in the patent be corrected from six hundred forty three (643) to twelve hundred thirteen (1213) days. Patentees disclose that the Office failed to enter a period of reduction of 106 days.

The request for reconsideration of the patent term adjustment indicated on the patent is **GRANTED to the extent indicated herein**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of five hundred thirty-seven **(537)** days.

On November 4, 2008, the above-identified application matured into U.S. Patent No. 7,445,926. The instant request for reconsideration was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a

revised Patent Term Adjustment of 643 days. Patentees request correction of the patent term adjustment to increase the patent term adjustment to 1213 days in that pursuant to 35 U.S.C. § 154(b) the Office failed to issue a patent within three years of the actual filing date of the above-referenced application in accordance with 37 CFR 1.702(b).

In addition, patentees disclose that an additional 106 days of applicant delay pursuant to 37 CFR 1.704(c)(8) for the submission of the Information Disclosure Statement (IDS) on April 29, 2008 after the response to the Office action was submitted on January 14, 2008 should have been entered.

With respect to the period of reduction of 106 days, patentees are correct. A review of the record confirms that a period of reduction should have been entered for the filing of the IDS on April 29, 2008. 37 CFR 1.704 (c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than asupplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, on January 14, 2008, patentees filed their response to the non-final Office action mailed July 12, 2007. (A period of delay of 94 days pursuant to 1.704(b) was entered). Thereafter, 106 days later, on April 29, 2008, patentees filed the IDS. The IDS was not expressly requested by the examiner and did not include a §1.704(d) statement. Accordingly, pursuant to § 1.704(c)(8), an additional period of reduction of 106 days should have been entered.

However, patentees are incorrect in asserting that they are entitled to additional patent term for Office delay. Patentees submit that the current USPTO patent term adjustment of 643 days should be increased to 1213 days under 35 USC § 154(b)(1)(B) and 37 C.F.R. §§1.702(b) and §1.703(b) based on failure to issue the patent within the three years of the actual filing date of the application in view of the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

Specifically, patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay (676 days) and the period of Examination Delay (737 days) to the extent that these periods of delay are not overlapping. Pursuant to the methodology for calculation used in Wyeth, patentees maintain that these periods do not overlap.

As discussed above, patentees disclose the period of reduction of 106 days. The period of reduction of 94 days for applicant delay is not in dispute.

As such, patentees assert entitlement to a patent term adjustment of 1213 days (676 + 737- 94- 106).

It is noted that the instant patent issued 3 years and 676 days after its filing date. However, the Office contends that the entire period of 676 days overlaps with the days of patent term adjustment accorded prior to the issuance of the patent (737 days). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark*

Office Interpretation of 35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

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

As such, the period for over 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

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

Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on December 30, 2006, the date that is 3 years after the actual filing date of the application is incorrect

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office until the issuance of the patent, December 29, 2003 to November 4, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). During that time, the issuance of the patent was delayed by 737 days, not 737 + 676 days. The Office took 14 months and 737 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 737 days of Office delay and the 94 + 106 days of applicant delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 676 days after its filing date. The Office did not delay 737 days and then an additional 676 days. Accordingly, 737 days of patent term adjustment (not 737 and 676 days) was properly entered since the period of delay of 676 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 737 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 737 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 676 days over three years. Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment specifically for the Office taking in excess of 3 years to issue the patent.

In view thereof, the instant patent is not entitled to further adjustment.

However, given entry of the 106 days of reduction, correction of the revised patent term adjustment to 537 days (737 - (94 + 106)) is required.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred thirty-seven (537)** days.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,445,926 B2

DATED : **November 4, 2008** **DRAFT**

INVENTOR(S) : Mathies 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 643 days

Delete the phrase "by 643 days" and insert – by 537 days--

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ROPES & GRAY LLP
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BOSTON MA 02110-2624

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APR 20 2009

OFFICE OF PETITIONS

In re Application of :
GLADNEY, RICHARD F. :
Application No. 10/750,540 : DECISION ON PETITION
Filed: 12/31/2003 :
Attorney Docket No. SMCY-P02-099 :

This is a decision on the petition under 37 CFR.1.181, filed November 24, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the nonfinal Office action, mailed on May 1, 2008, which set a three-month shortened statutory period for reply. On November 14, 2008, the Office mailed a Notice of Abandonment.

Petitioner stated that he timely mailed a reply and a request for an extension of time for response within the third month, which included a certificate of mailing dated Monday, November 3, 2008.

A review of the file reveals that the USPTO received the reply and the request for an extension of time for response within the third month, which included a certificate of mailing date of November 3, 2008. Thus, the reply is considered timely filed on July 23, 2008,[1] with the request for an extension of time for response within the third month. See 37 CFR 1.8(a) and 1.136(a).

[1] When the last day for taking any action or paying any fee in the Office falls on a Saturday, Sunday, or a Federal holiday within the District of Columbia, the action or the fee is considered timely if the action is taken or the fee is paid on the next succeeding business day.

Accordingly, the petition under 37 CFR 1.181 is granted. The holding of abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a proper response was timely submitted.

The matter is being referred to Technology Center Art Unit 3673 for a review of the reply.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of Robert Cahn Application No. 10/750,548 Filed: December 31, 2003 Attorney Docket No. 2003-0025(1166-24)	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed May 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Nonprovisional Application mailed May 4, 2004, which set a 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 July 5, 2004.

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

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

Karen Creasy

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

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AUG 19 2009

OFFICE OF PETITIONS

In re Application of
Sumeet Sandhu
Application No. 10/750,549
Filed: December 31, 2003
Attorney Docket No. 042390.P17433

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed April 8, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received June 25, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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LORENZ, P.C.
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SCOTTSDALE AZ 85253

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OFFICE OF PETITIONS

In re Application of	:	
Raj Bridgelall	:	DECISION ON APPLICATION
Application No. 10/750,550	:	FOR
Filed: December 31, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 022.0028(1615)	:	

This is a decision on the "Application for Patent Term Adjustment filed under 37 C.F.R. § 1.705(b)," filed June 13, 2008. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred forty-one (541) days to six hundred twelve (612) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

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 **six hundred forty-six (646)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 13, 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 541 days. On June 13, 2008, applicant timely submitted the instant application for patent term adjustment[1]. Applicant disputes the reduction of 71 days associated with the filing of a request for continued examination (RCE) on December 19, 2007. Applicant asserts that their RCE was filed on October 8, 2007 within 3 months of the mailing of the final Office action on July 9, 2007, and thus, no reduction was warranted.

[1] PALM records indicate that the Issue Payment was also filed on June 13, 2008.

Applicant states that this application is not subject to a terminal disclaimer.

Applicant's arguments have been considered and found persuasive. A review of the record reveals that a request for continued examination (RCE) including the RCE fee was filed on October 8, 2007, but not fully recognized by the Office. In response to the Advisory Action, applicant filed the RCE on form PTO/SB/30. Accordingly, the reduction of 71 days pursuant to 37 CFR 1.704(b) for taking until December 19, 2007 to file a response in compliance with § 1.113(c) is being removed.

Moreover, as the response in compliance with § 1.113(c) was filed on October 8, 2007, a period of adjustment of 34 days is properly entered pursuant to 37 CFR 1.702(a)(2) for the Office taking until March 13, 2008 to mail the notice of allowance.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 646 days.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Saturday
Date: 8/30/2008

PALM INTRANET

Time: 18:15:10

PTA Calculations for Application: 10/750550			
Application Filing Date:	12/31/2003	PTO Delay (PTO):	641
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	100
Post-Issue Petitions:	0	Total PTA (days):	646
PTO Delay Adjustment:	105		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
56	08/30/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	34		
55	08/30/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	71		
44	03/13/2008	MAIL NOTICE OF ALLOWANCE			
43	03/05/2008	ISSUE REVISION COMPLETED			
42	03/05/2008	DOCUMENT VERIFICATION			
41	03/05/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	03/05/2008	CASE DOCKETED TO EXAMINER IN GAU			
39	03/03/2008	NOTICE OF ALLOWABILITY			
38	12/21/2007	DATE FORWARDED TO EXAMINER			
37	10/08/2007	RCE- AF PROCESSED			
36	12/21/2007	DATE FORWARDED TO EXAMINER			
35	12/19/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		71	26
34	12/21/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
33	12/21/2007	DATE FORWARDED TO EXAMINER			
32	10/08/2007	AMENDMENT AFTER FINAL REJECTION			
31	11/15/2007	MAIL ADVISORY ACTION (PTOL - 303)			
30	11/13/2007	ADVISORY ACTION (PTOL-303)			
29	10/25/2007	DATE FORWARDED TO EXAMINER			
28	10/08/2007	AMENDMENT AFTER FINAL REJECTION			
27	10/08/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
26	07/09/2007	MAIL FINAL REJECTION (PTOL - 326)			
25	06/25/2007	FINAL REJECTION			
24	04/12/2007	DATE FORWARDED TO EXAMINER			
23	03/30/2007	RESPONSE AFTER NON-FINAL ACTION		29	21

22	03/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	12/01/2006	MAIL NON-FINAL REJECTION	641		-1
20	11/27/2006	NON-FINAL REJECTION			
19	06/23/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	07/31/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	06/23/2005	REFERENCE CAPTURE ON IDS			
15.7	06/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	06/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/15/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	03/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	03/01/2004	NEW OR ADDITIONAL DRAWING FILED			
11	07/23/2004	APPLICATION RETURN FROM OIPE			
10	07/23/2004	APPLICATION RETURN TO OIPE			
9	07/23/2004	APPLICATION DISPATCHED FROM OIPE			
8	07/23/2004	APPLICATION IS NOW COMPLETE			
7	07/01/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	07/01/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	05/04/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	02/27/2004	CLEARED BY OIPE CSR			
3	02/27/2004	CASE CLASSIFIED BY OIPE			
2	01/23/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/31/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/09/08

TO SPE OF : ART UNIT 2113

SUBJECT : Request for Certificate of Correction for Appl. No.: 10750562 Patent No.: 7197670

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.

Formatted: Indent: Left: 88 pt

Comments: _____

_____ _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE /Robert Beausoliel/

Art Unit 2113

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In re Application of :
Hyung Ki Hong :
Application No. 10/750,575 : ON PETITION
Filed: December 29, 2003 :
Attorney Docket No. 10125/4134 :

This is a decision on the petition under 37 CFR 1.53, filed December 6, 2004, requesting that the above-identified application be accorded a filing date of December 29, 2003, including page 9 of the specification.

The application was filed on December 29, 2003. However, on October 15, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s) In A Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but page 9 of the specification appears to have been omitted.

In response, on December 6, 2004, the instant petition and a copy of page 9 of the specification were submitted. The petition was accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "30 pp. of Specification including cover page," on December 29, 2003. A review of the application file indicates the presence of twenty-nine (29) pages of specification including the cover sheet. It is assumed that page 9 of the specification was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee, submitted December 6, 2004, will be refunded to deposit account no. 23-1925.

This application will be returned to OIPE for further processing with a filing date of December 29, 2003, using the copy of page 9 of the specification, supplied on December 6, 2004.

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

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

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FAEGRE & BENSON, LLP
PATENT DOCKETING
90 SOUTH SEVENTH STREET
2200 WELLS FARGO CENTER
MINNEAPOLIS MN 55402

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Machael et al.	:	
Application No. 10/750576	:	
Filing or 371(c) Date: 12/30/2003	:	ON PETITION
Attorney Docket Number:	:	
77012-325124	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of 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 final Office action[1], mailed October 20, 2005. 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 January 21, 2006. A Notice of Abandonment was mailed May 31, 2006.

[1] Applicant incorrectly notes in the petition that the reply is filed in response to a non-final Office action.

Applicable law, Rules and MPEP

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

The instant petition

Applicant files the present petition and Amendment.

The Examiner has reviewed the Amendment and concluded that the Amendment fails to place the application in condition for allowance.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

---

[2] A reply under 37 CFR 1.113 to a final action must include a request for continued examination (RCE) under 37 CFR 1.114 or cancellation of, or appeal from the rejection of, each claim so rejected. Accordingly, in a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:
(A) a Notice of Appeal and appeal fee;
(B) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance;
(C) the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995 (see paragraph (d) below); or
(D) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).
When a notice of appeal is the reply filed pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1), the time period under 37 CFR 41.37 for filing the appeal brief will be set by the Director of the USPTO in the decision granting the petition.

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

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

Inquiries regarding the Amendment should be directed to the Examiner. Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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PATENT DOCKETING
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2200 WELLS FARGO CENTER
MINNEAPOLIS MN 55402

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SEP 30 2008

In re Application of	:	
Machael et al.	:	
Application No. 10/750576	:	
Filing or 371(c) Date: 12/30/2003	:	ON PETITION
Attorney Docket Number:	:	
77012-325124	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 9, 2008, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed January 18, 2007. 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 April 19, 2007. A Notice of Abandonment was mailed October 9, 2007.

Applicant filed a petition on June 7, 2007, which was dismissed in a Decision mailed September 20, 2007, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b).

The present renewed petition

Applicant files the present renewed petition, Request for Continued Examination ("RCE") and amendment in response to the Office action.

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

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

This application is being referred to Technology Center AU 3636 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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William Collard
Collard & Roe, P. C.
1077 Northern Boulevard
Roslyn, NY 11576

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JUL 22 2005

OFFICE OF PETITIONS

In re Application of :
Eric Zimmermann :
Application No. 10/750,577 : DECISION ON PETITION
Filed: December 29, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. Zimmermann-1 PCT-US

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 3, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/US02/20917, filed July 1, 2002, and Nonprovisional Application No. 09/896,744, filed June 29, 2001, set forth in the amendment submitted concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The petition complies with the requirements noted above.

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

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

Any inquiries concerning this decision may be directed to Marianne Jenkins at (571) 272-3223.

This application is being forwarded to the examiner of Technology Center Art Unit 3634 for appropriate action on the amendment filed December 3, 2004, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/US02/20917, filed July 1, 2002 and Nonprovisional Application No. 09/896,744 filed June 29, 2001.

Frances Hicks

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

Attachment: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 7/1/08

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction on Patent No.: 10/750,585

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:

AKM ULLAH
SUPERVISORY PATENT EXAMINER

2838

SPE: Art Unit

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Robert C. Kowert
Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C.
P.O. Box 398
Austin TX 78767

MAILED

SEP 1 4 2005

Technology Center 2100

In re Application of: COLGROVE et al.
Application No. 10/750,597
Filed: December 31, 2003
For: MULTI-CLASS STORAGE MECHANISM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 29 March 2004 and supplemented 17 August 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

MPEP §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.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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United States Patent and Trademark Office
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RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

Mail Date: 04/21/2010

Applicant	: James H. Watt	: DECISION ON REQUEST FOR
Patent Number	: 7613773	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/750,605	: 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 **1153** 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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DANTE C. ROHR
2ND FLOOR
399 MARKET STREET
PHILADELPHIA PA 19106

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OFFICE OF PETITIONS

In re Application of :
James L. NAGLE :
Application No. 10/750,616 : ON PETITION
Filed: December 31, 2003 :
Attorney Docket No. 36205-29694 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2005, 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 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 January 12, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on April 13, 2005

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 22, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted 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). See the enclosed PTOL-303 and PTOL-324.

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 $ 1080 extension of time fee submitted with the response on August 11, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

Encl.: PTOL-303
PTOL-324

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JAN 1 0 2006

OFFICE OF PETITIONS

In re Application of :
James L. NAGLE :
Application No. 10/750,616 : ON PETITION
Filed: December 31, 2003 :
Attorney Docket No. 36205-29694 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 12, 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 July 13, 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 that *prima facie* places the application in condition for allowance; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of January 12, 2005 is accepted as having been unintentionally delayed.

Since the $750 petition fee submitted with the response on November 21, 2005 was previously submitted with the petition filed September 15, 2005, this fee is unnecessary and will be credited to petitioner's deposit account no. 50-2525.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3712 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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KING & SPALDING LLP
1180 PEACHTREE STREET
ATLANTA, GA 30309-3521

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OFFICE OF PETITIONS

In re Application of	:
Sue K. Denise, et al.	:
Application No. 10/750,622	: DECISION GRANTING PETITION
Filed: December 31, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MMI-0102	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 26, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 3, 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]

A review of the record shows that the RCE filed June 24, 2008 was paid with the small entity fee of $405. Since this request was after the loss of entitlement previously filed on March 3, 2008, the fees submitted with the petition to withdraw from issue and the RCE on June 24, 2008 are unnecessary and will be credited to petitioner's credit card.

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1637 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
April M. Wise
Petitions Examiner
Office of Petitions

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

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OFFICE OF PATENT COUNSEL
SPAWARSYCEN, CODE 20012
53510 SILVERGATE AVE. ROOM 103
SAN DIEGO CA 92152-5765

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JUN 21 2007
OFFICE OF PETITIONS

In re Application of	:
Ptasinski, et al.	: DECISION ON PETITION
Application No. 10/750,626	:
Filed: December 18, 2003	:
Docket No.: 84930	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 23, 2007.

This application was held abandoned April 10, 2007 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed January 9, 2007. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed May 4, 2007.

Petitioners assert that a response to the Notice was timely submitted on April 9, 2007 and have provided as proof of mailing and proof of USPTO receipt a copy of the original reply bearing a certificate of mailing date of April 3, 2007 in accordance with 37 CFR 1.8.

The original response was received April 9, 2007 and has been located in the application file. Thus, the required reply was timely submitted.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

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

The application file is being forwarded to the Office of Patent Publication 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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NASA/MARSHALL SPACE FLIGHT CENTER
LS01/OFFICE OF CHIEF COUNSEL
MSFC, AL 35812

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APR 04 2006

OFFICE OF PETITIONS

In re Application of	:	
Anthony R. Kelley et al	:	
Application No. 10/750,628	:	DECISION ON PETITION
Filed: December 19, 2003	:	UNDER 37 CFR 1.182
Attorney Docket No. MFS-31952-1	:	

This is a decision on the petition under 37 CFR 1.182, filed March 17, 2006, to correct the second inventor's name.

The petition is **GRANTED**.

Office records have been changed to reflect that the second inventor's correct name is "Paul D. Van Buskirk." A corrected Filing Receipt, which sets forth the inventor's correct name, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been charged to petitioner's deposit account.

The printing of the patent may have progressed to the point where it may not be possible to include the inventor's correct name on the front page of the Letters Patent. In this case, petitioner may request a Certificate of Correction under the provisions of 37 CFR 1.323 (and pay the $100 fee therefor).

Inquiries concerning this decision on petition may be directed to the undersigned at 571-272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/750,628	12/19/2003	3754	1094	MFS-31952-1	4	26	4

CONFIRMATION NO. 9911

30698
NASA/MARSHALL SPACE FLIGHT CENTER
LSO1/OFFICE OF CHIEF COUNSEL
MSFC, AL 35812

CORRECTED FILING RECEIPT

OC000000018448336

Date Mailed: 04/04/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Anthony R. Kelley, Madison, AL;
Paul D. Van Buskirk, Humble, TX;

Power of Attorney: The patent practitioners associated with Customer Number **30698**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/750,628

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

BALANCED ORIFICE PLATE

Preliminary Class

138

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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GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK CA 94560

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OFFICE OF PETITIONS

In re Application of	:	
Jang et al.	:	
Application No. 10/750,638	:	DECISION ON PETITION
Filed: December 19, 2003	:	
Attorney Docket No. 139-043U	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 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 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 2627 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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OFFICE OF PETITIONS

Patentee: Moon et al.
Application Number: 10/750,692
Patent: 7,009,856
Attorney Docket No: 11037-178-999
Filing Date: December 31, 2003
Issue Date: March 7, 2006

DECISION ON PETITION

This is a decision on the petition filed May 2, 2006 under 37 CFR 3.81 (b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

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

Any questions concerning the issuance of the Certificate of Correction should be

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

directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Thomas D. Kohler
Morgan Lewis & Bockius LLP
One Market Spear Street Tower
San Franciso, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Philip S. Siegel :
Application No. 10/750,705 :
Filed: January 2, 2004 :
Attorney Docket No. 067439.0155 :

This is in response to the petition under 37 CFR 1.53, filed July 23, 2004, in response to the Notice of Incomplete Application mailed July 13, 2004, and requesting a filing date of January 2, 2004.

The petition under 37 CFR 1.53 is **GRANTED.**

The instant application was deposited with the USPTO on January 2, 2004. On July 13, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Application" indicating that the application was deposited without drawings and set a two (2) month shortened statutory period for reply.

In response, on July 23, 2004, the present petition was filed, accompanied by, *inter alia*, four (4) sheets of drawings. Because the return postcard receipt date-stamped January 2, 2004 properly itemizes the contents of the application package in accordance with MPEP § 503, the Office concludes that four (4) sheets of drawings were filed on January 2, 2004 with the application papers but the drawings were misplaced in the office. The office apologizes for any inconvenience occasioned by the loss of the drawings.

In view of the foregoing, the **petition to accord a filing date of January 2, 2004** will be accorded this application. The petition fee in the amount of $130.00 will be credited to petitioner's deposit account no. 02-0384 as no fee is due.

This file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of January 2, 2004 using the four (4) sheets of drawings supplied July 23, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Ricardo E. Gonzalez	: DECISION ON REQUEST FOR
Patent Number	: 7581081	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/750,714	: 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 **285** 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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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Mail Date: 05/18/2010

Applicant : Ricardo E. Gonzalez
Patent Number : 7581081
Issue Date : 08/25/2009
Application No : 10/750,714
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 **327** 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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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OFFICE OF PETITIONS

In re Application of :
Chris Newburn et al :
Application No. 10/750,715 : ON PETITION
Filed: December 31, 2003 :
Attorney Docket No. 42P18598

This is a decision on the petition, filed December 18, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 29, 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 2187 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).

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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE, CA 95110

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In re Application of	:	
Rafael Maestre Ferriz	:	
Application No. 10/750,721	:	DECISION ON PETITION
Filed: December 21, 2003	:	TO WITHDRAW
Attorney Docket No. M-15276 US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 3, 2008 and resubmitted April 21, 2008.

The request is **NOT APPROVED**.

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

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

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

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

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MORPHO TECHNOLOGIES
25052 CHAMPLAIN ROAD
LAGUNA HILLS, CA 92653

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ALBERT W. WATKINS
30844 NE 1ST AVENUE
ST. JOSEPH MN 56374

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OFFICE OF PETITIONS

In re Application of	:	
John M. Rice	:	
Application No. 10/750,738	:	DECISION ON PETITION
Filed: December 31, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. Rice Wedge	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 3,2006, 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 copy of applicant's driver's license. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3742 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ALBERT W. WATKINS
30844 NE 1ST AVENUE
ST. JOSEPH, MN 56374

In re Application of John M. Rice Application No. 10/750,738 Filed: December 31, 2003 Attorney Docket No. RiceWedge	: DECISION GRANTING PETITION

This is a decision on the petition, filed April 1, 2005 , 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** final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on April 1, 2005, with the instant petition. 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.

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

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

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

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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ALBERT W. WATKINS
30844 NE 1ST AVENUE
ST. JOSEPH, MN 56374

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FEB 23 2007

OFFICE OF PETITIONS

In re Application of	:
John M. Rice	:
Application No. 10/750,738	: DECISION GRANTING PETITION
Filed: December 31, 2003	:
Attorney Docket No. RiceWedge	:

This is a decision on the renewed petition, filed February 2, 2007 , 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 present nonprovisional application is the subject of a foreign or international application filed on December 31, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. A Communication Regarding Recision Of Nonpublication Request and/or Notice of Foreign Filing was mailed February 17, 2005 advising that the projected publication date was scheduled for May 26, 2005.

The petition fee in the amount of $750.00 was paid April 1, 2005 and has been applied to the finance records for this application.

This matter is being referred to Technology Center 3742 for further 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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BLANEY HARPER
JONES DAY, REAVIS & POPGUE
51 LOUISIANA AVENUE, NW
WASHINGTON DC 20001

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OFFICE OF PETITIONS

In re Application of	:	
Hal Popplewell	:	
Application No. 10/750,741	:	DECISION GRANTING PETITION
Filed: January 2, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 776503-600-001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 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 (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Non-final Office action of May 5, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2125

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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In re Patent No. 6808652
Issue Date: October 26,2004
Application No. 10750756
Filed: January 5,2004
Attorney Docket No. 05823.0219.01000

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed December 3,2008 ,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 December 3,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: William H. Bridge JR.	: DECISION ON REQUEST FOR
Patent Number	: 7640275	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/750,806	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **614** 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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CIBA Specialty Chemicals Corporation
Patent Department
540 White Plains Road
PO Box 2005
Tarrytown, NY 10591-9005

In re Application of	:	
HOLZL, Werner et al.	:: :	
U.S. Application No.: 10/750,810	:	DECISION ON
Filing Date: 31 December 2003	:	
Attorney's Docket No.: HM/5-21810/A/PCT/DIV	:	PETITION
For: MICROBICIDAL ACTIVE SUBSTANCES	:	UNDER 37 CFR 1.181

Applicants filed "Request For Suspension of Rules Under 37 CFR §1.183," in the United States Patent and Trademark Office on 20 September 2004. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 31 December 2003, applicants filed application 10/750,810, a divisional of application no. 09/762,008, patent 6,689,372, which is a 371 of PCT/EP99/05449.

On 06 May 2004, the Office mailed a filing receipt in the above case indicating that the filing date of application 09/762,008 is 01 February 2000.

On 20 September 2004, applicants filed the instant request seeking a corrected filing receipt.

DISCUSSION

The filing date listed on a filing receipt for an application filed under 35 U.S.C. §371 is the date on which the requirements of 35 U.S.C. §371(c)(1), (2) and (4) were satisfied. The filing receipt lists the filing date of 09/762,008 as 01 February 2000. However, Office records reflect that the 35 U.S.C. §371(c)(1), (2) and (4) requirements were satisfied on 01 February 2001. The filing receipt for 10/750,810 incorrectly listed the domestic priority date data. A corrected filing receipt is enclosed.

CONCLUSION

For the above reasons, the Petition Under 37 CFR 1.181 is **GRANTED**.

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

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Liming Tsau	:	DECISION DISMISSING
Application No. 10/750,834	:	PETITION
Filed: January 5, 2004	:	
Attorney Docket No. 1875.023001/JDE	:	

This is a decision on the petition filed June 3, 2004, requesting that the above-identified application be accorded a filing date of January 5, 2004, with Figures 16A-19J as part of the original disclosure.

On January 5, 2004, applicant filed the above-identified application. On April 9, 2004, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application was accorded a filing date of January 5, 2004; however, it appeared that Figures 16A-19J described in the specification were omitted.

In response, on June 3, 2004, applicant submitted, inter alia, the present petition, the petition fee, and copies of 13 sheets of drawings containing Figures 16A-19J.

Applicant admits that Figures 16A-19J were not submitted on filing the original application papers. However, applicant argues that these figures should not be considered omitted because they were incorporated by reference.

Upon review of the record, Figures 16A-19J have not been located in the official file. It is noted that the application transmittal letter identified this application as a continuation application of prior application No. 09/753,664, filed January 4, 2001, and specifically incorporated by reference the disclosure of the prior application.

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a

> statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied).

Obviously, in view of the incorporation by reference of Application No. 09/753,664, the drawings of Figures 16A-19J are not new matter if they were a part of the disclosure of Application No. 09/753,664. If applicant desires that Figures 16A-19J be added to the application, an amendment should be filed prior to the first action on the merits, which will be considered by the primary examiner.

Accordingly, the Notice mailed on April 9, 2004, was correct in stating that Figures 16A-19J described in the specification appeared to have been omitted. Therefore, the requirement for the omitted figures was proper and will not be withdrawn.

Accordingly, the petition is dismissed.

The $130.00 petition fee will not be refunded because the petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The Office of Initial Patent Examination is directed to process the application with a filing date of January 5, 2004, using the application papers filed on that date. Figures 16A-19J will not be entered at this time.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Tsau, Liming	:	
Application No. 10/750,834	:	
Filed: January 5, 2004	:	
Attorney Docket No. 1875.0230001	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 18, 2006, to revive the above-identified application.

The petition is **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 with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

Liana Chase
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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SMART & BIGGAR
Suite 3400
1000 de la Gauchetiere Street West
Montreal, QC H3B 4W5
CANADA

Mail Date: 04/21/2010

Applicant	: Richard Soucy	: DECISION ON REQUEST FOR
Patent Number	: 7643928	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/750,836	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1713** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Date :January 8, 2009

Patent No. :7441240
Inventor(s) :Katsushige Amano et al.
Issued :October 21, 2008
Title :PROCESS SCHEDULING APPARATUS, PROCESS SCHEDULING METHOD, PROGRAM :FOR PROCESS SCHEDULING, AND STORAGE MEDIUM RECORIDNG A PROGRAM :FOR PROCESS SCHEDULING

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Walter C. Pledger
Wenderoth, Lind & Ponack, LLP
2033 K sStreet N.W. Suite 800
Washington, DC 2006-1021

/arg

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OFFICE OF PETITIONS

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

In re Application of	:	
Amano et al.	:	
Application No. 10/750,852	:	DECISION ON PETITION
Filed: January 5, 2004	:	
Patent No.7,441,240	:	
Issued: October 21, 2008	:	
Attorney Docket No. 2003_1916A	:	

This is a decision on the request under 37 CFR 3.81(b)[1] filed March 31, 2009 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 indicates that the correct assignees are Matsushita Electric Industrial Co., Ltd., Osaka, Japan, and Sony Corporation, Tokyo, Japan, and that the Fee(s) Transmittal form PTOL-85(b) incorrectly identified the assignee's name. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignees 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.

---

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Matsushita Electric Industrial Co., Ltd. and Sony Corporation are the assignees of record, which assignments were submitted for recordation as set forth in § 3.11 before issuance of the patent. 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.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692. 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.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

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AUG 23 2005

Technology Center 2100

In re Application of:
MIKI et al.
Application No. 10/750,859
Filed: January 5, 2004
For: STORAGE DEVICE SYSTEM HAVING BI-DIRECTIONAL COPY CONTROL FUNCTION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on June 29, 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 submission of June 29, 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

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

In re Application of	:
Hans-Michael Eggenweiler et al	:
Serial No.: 10/750,878	: PETITION DECISION
Filed: January 5, 2004	:
Attorney Docket No.: MERCK-2412-D01	:

This is in response to the petition under 37 CFR 1.144, filed September 12, 2006, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on January 5, 2004, and contained claims 5-8, following preliminary amendment. In a first Office action, mailed March 28, 2005, the examiner required an election of species prior to examination.

Applicants replied on April 28, 2005, electing a specific compound and a specific condition for the method of treatment, with traverse.

The examiner mailed a new Office action to applicants on July 14, 2005, acknowledging the species elected, responding to the traverse and making the requirement Final. The examiner then rejected claims 5-8 under 35 U.S.C. 112, first paragraph, for lack of enablement from three different perspectives, and under second paragraph for indefiniteness.

Applicants replied on October 14, 2005, responding to the examiner's rejections and continuing the traverse of the election of species requirement.

The examiner mailed a Final Office action to applicants on January 10, 2006, maintaining all of the rejections for reasons of record.

Applicants filed an amendment after Final rejection on April 10, 2006 and a Notice of Appeal on June 15, 2006, and an Appeal Brief on September 12, 2006, concurrently with this petition.

DISCUSSION

37 CFR 1.144 states as follows:

> 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).

The petition in this application was not filed until the Appeal Brief was filed which is after the Notice of Appeal and is, therefore, untimely.

DECISION

The petition is **DISMISSED** as untimely.

The application will be forwarded to the examiner for preparation of the Examiner's Answer or other appropriate action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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OFFICE OF PETITIONS

In re Application of	:	
Louis B. Johnson, et. al.	:	
Application No. 10/750,884	:	ON PETITION
Filed: January 5, 2004	:	
Attorney Docket No. 12080-0002CP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 26, 2007, to revive the above-identified application.

The application became abandoned for failure to reply to the non-final Office action mailed November 16, 2005. A Notice of Abandonment was mailed on May 30, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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, this will be construed as a request to expressly abandon this application in favor of the granting of a filing date to the continuing application. Accordingly, this application is revived solely for the purpose of continuity with continuing Application No. 11/976,628, filed October 26, 2007. As continuity has been established by the revival of this application, this application is again abandoned in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

The Office acknowledges receipt of $525 for a three months extension of time filed on October 26, 2007. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the $525 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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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BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NOS. 003797 & 013797
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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OFFICE OF PETITIONS

In re Application of	:	
Chkodrov et al.	:	
Application No. 10/750885	:	
Filing or 371(c) Date: 01/05/2004	:	
Attorney Docket Number:	:	
003797.00713	:	ON PETITION

This is a decision on the "Request to Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181", filed June 1, 2007. The request is properly treated as a petition.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 17, 2006. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on October 18, 2006. A Notice of Abandonment was mailed April 6, 2007.

With the instant petition, Applicant has demonstrated non-receipt of the Office Action by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2167 for re-mailing of the Office action.

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

Derek L. Woods
Attorney
Office of Petitions

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Roberte M. D. Makowski
Connolly Bove Lodge & Hutz LLP
1007 North Orange Street
P.O. Box 2207
Wilmington DE 19899

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OFFICE OF PETITIONS

In re Application of	:	
Holger PUCHTA et al.	:	
Application No. 10/750,891	:	DECISION ON PETITIONS
Filed: January 5, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 532622003100	:	AND 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed May 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed nonprovisional and PCT applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed amendment and declaration, respectively.

As to the benefit claim under 37 CFR 1.78(a)(3):

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

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

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

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being to Technology Center Art Unit 1638 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120, 365(c) and 35 U.S.C. § 119(a)-(d) of the prior-filed applications.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,902	01/05/2004	Samir S. Shiban		2011

7590 10/10/2008

James C. Wray
Suite 300
1493 Chain Bridge Road
McLean, VA 22101

EXAMINER
JOHNSON, EDWARD M

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
10/10/2008	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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10/10/08

caf

Mailed:

In re application of	:	
Dale A. Davison	:	DECISION ON
Serial No. 10/750,902	:	PETITION
Filed: January 5, 2004	:	
For: COMBINED CHEMICAL AGENT AND DYNAMIC	:	
OXIDATION TREATMENT OF HAZARDOUS GAS	:	

This is a decision on the PETITION TO WITHDRAW RESTRICTION 37 CFR 1.144 MPEP 818.03(C) filed June 9, 2008.

On June 28, 2007, a restriction requirement was mailed. The restriction requirement included a restriction between method and apparatus claims. On July 30, 2007 a response to the restriction requirement was filed and the claims to the method were elected with traverse. On October 18, 2007 a non-final office action was mailed. This office action withdrew claims 1-13 from consideration and made the restriction requirement final. A final Office Action was mailed March 14, 2008.

On June 9, 2008 the instant petition was filed to formally request that the restriction requirements be withdrawn.

DECISION

First, applicant argues that the restriction between the apparatus and method claims is improper because the method and apparatus claims are not drawn to independent and distinct inventions. The examiner takes the position that the inventions are independent and distinct since the apparatus as claimed could be used to practice another and materially different process or the process can be carried out by another and materially different apparatus. The examiner has stated that the apparatus could be used to practice a materially different process, such as a

process for specific treatment of NOx, SOx and or halogens. The examiner has also stated that the process could also be practiced by a materially different apparatus, such as an apparatus comprising a specific catalytic and/or absorbing means.

Petitioner argues that the two examples given by the examiner are meaningless and do not consider the claims as claimed. An analysis of the examples follows. With respect to the statement that the apparatus could be used to practice a materially different process, such as a process for specific treatment of NOx, SOx and or halogens it is submitted that the process as claimed is not limited to the treatment of particular gasses and thus the method proposed by the examiner is not materially different. Further, with respect to the statement that the process could also be practiced by a materially different apparatus, such as an apparatus comprising a specific catalytic and/or absorbing means, it is submitted that the apparatus claims contain open claim language (i.e. comprising) which would not preclude the inclusion of catalytic and/or absorbing means. Therefore the apparatus proposed by the examiner is not materially different from that claimed.

Accordingly, the restriction requirement as set forth in the office action of June 28, 2007, between the method and apparatus is improper and should be withdrawn. The instant petition is **GRANTED.**

/JACQUELINE STONE/

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

James C. Wray
Suite 300
1493 Chain Bridge Road
McLean VA 22101

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VMWARE, INC.
DARRYL SMITH
3401 HILLVIEW AVE.
PALO ALTO, CA 94304

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AUG 13 2008

In re Application of	:	
Carl A. Waldspurger, et al.	:	
Application No. 10/750,919	:	ON PETITION
Filed: December 31, 2003	:	
Attorney Docket No. A38	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 15, 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 August 22, 2007. A Notice of Abandonment was mailed on April 9, 2008. In response, on April 15, 2008, the present petition was filed. It is noted that the balance of the requisite petition fee was submitted on May 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 and fee of $810; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2185 for further processing in the normal course of business of the RCE 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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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

In re Application of
Derisoglu et al
Application No. 10/750,949
Filed: January 5, 2004
Title: Accelerated San Circuitry and Method for Reducing Scan Test Data Volume and Execution Time

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed June 14, 2006.

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

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed November 23, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on February 24, 2006. A supplemental Notice of Allowability was mailed on May 15, 2006. A Notice of Abandonment was mailed on May 31, 2006.

Petitioner contends the Notice of Allowance and Fee (s) Due mailed on November 23, 2005 was not received. Petitioner states a search of the file jacket and docket records confirms the Notice of Allowance was not received. In support of petitioner's contention, a copy of the docket records has been provided.

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

This application is being forwarded to Art Unit 2133 for re-mailing of the Notice of Allowance and the Notice of Allowability to the correspondence address of record. The three month non-extendable time period for reply will be set to run from the mailing date of the new Office Communication.

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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FOLEY & LARDNER
555 South Flower Street
SUITE 3500
LOS ANGELES CA 90071-2411

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APR 08 2010

OFFICE OF PETITIONS

In re Application of	:	
John J. Shin, et al.	:	
Application No. 10/750,978	:	DECISION GRANTING PETITION
Filed: December 31, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 047711-0335	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, April 8, 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 February 5, 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 2863 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

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.*

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THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS CA 91344

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FEB 13 2008

OFFICE OF PETITIONS

In re Application of :
Weinan GAO :
Application No. 10/751,013 :
Filed: December 31, 2003 :
Attorney Docket No. CX03022USU :
(04CXT0006D)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 21, 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 amendment; (2) the petition fee of $1540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of April 20, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2618 for appropriate action on the concurrently filed amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ACCENTURE INDY 33391
BRINKS HOFER GILSON & LIONE
CAPITAL CENTER, SUITE 1100
201 NORTH ILLINOIS STREET
INDIANAPOLIS IN 46204-4220

In re Patent of Portman et al.	:	DECISION ON REQUEST
Patent No. 7,640,006	:	FOR RECONSIDERATION OF
Issue Date: December 29, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/751,022	:	AND NOTICE OF INTENT TO
Filing Date: January 2, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. 10022/325	:	CORRECTION

This is a decision on the petition filed on January 19, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by eight hundred seventy-seven (877) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by eight hundred seventy-seven (877) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **eight hundred seventy-seven (877)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,640,006 B2
APPLICATION NO.	:	10/751,022
DATED	:	December 29, 2009
INVENTOR(S)	:	Eric A. Portman et al.

DRAFT

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

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 452 days.

Delete the phrase "by 452 days" and insert -- by 877 days--

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DAVIS WRIGHT TREMAINE LLP - SANDISK CORPORATION
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111

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MAY 01 2009

OFFICE OF PETITIONS

In re Application of	:	
Carlos J. GONZALEZ, et al.	:	
Application No. 10/751,033	:	DECISION GRANTING PETITION
Filed: December 31, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **0084567-281US0**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April30, 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 April 23, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2113 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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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	: 7594135	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/751,033	: 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 **1176** 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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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 :
Jeon :
Application No. 10/751,044 : ON PETITION
Filed: December 31, 2003 :
Title: Parking Lever Apparatus of a Vehicle :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 6, 2006. In the alternative, petitioner has requested the petition be treated under 37 CFR 1.137(b).

The petition to withdraw the holding of abandonment is **Dismissed**.
The petition to revive under 37 CFR 1.137(b) is **Granted**.

This application became abandoned for failure to timely submit corrected drawings, as required by the Notice of Allowability which was mailed February 3, 2005 and set a 3 month period for reply. Extensions of time were not available under 37 CFR §1.136(a). Accordingly, this application became abandoned on May 4, 2005. A Notice of Abandonment was mailed on August 3, 2005.

Petitioner contends that the Notice of Allowability merely stated that "Formal Drawings should be submitted". When specific drawings objections were requested during a telephone interview, petitioner was purportedly told that the "patent drawings should look perfect". Petitioner contends that imperfections in the drawings cannot be located. Subsequent calls to the examiner went unanswered. The issue and publication fees were timely submitted.

Petitioner's argument has been considered but it is not convincing to establish the holding of abandonment should be withdrawn.

Pursuant to 37 CFR 1.2 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. The Notice of Allowability clearly

states that applicant was required to submit corrected drawings within the three month period of reply. A review of the record shows that corrected drawings were not filed prior to the abandonment of the application. Further review shows petitioner did not file any objections to the Notice of Allowability in writing.

Alternative Venue

In the alternative, petitioner has requested the above petition be treated under 37 CFR 1.137(b).

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

Pursuant to petitioner's request deposit account no. 50-0310 will be charged the $1500.00 petition fee.

The application will be forwarded to the Office of Patent Publication for review of the drawings.

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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MORGAN LEWIS & BOCKIUS LLP
ONE MARKET, SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

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OFFICE OF PETITIONS

In re Patent No. 6,997,586	:	
Issue Date: February 14, 2006	:	
Application No. 10/751,049	:	ON PETITION
Filed: December 31, 2003	:	
Attorney Docket No. 060943-0050	:	

This is a decision on the petition filed August 8, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Collins Solomon Jr.
1501 W. Hill Avenue
Fullerton, CA 92833

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OFFICE OF PETITIONS

In re Application of:	:	
Collins Solomon Jr.	:	
Application No. 10/751,068	:	DECISION ON
Filed: January 5, 2004	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.137(a)
ADJUSTABLE PISTON PUMP	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed February 16, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed April 1, 2005, which set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 2, 2005. A Notice of Abandonment was mailed on October 25, 2005.

Applicant's Assertion

Applicant asserts that the payment of the issue fee was unavoidably delayed because Applicant was hospitalized in March 2005 due to high blood pressure and excess water retention. As a result of Applicant's hospitalization, Applicant was unable to work during 2005 and worked only part time. Applicant alleges that he spent another week in the hospital in January 2006 for the same problem.

Initially it is noted that the relevant period for revival of an application based upon unavoidable delay is from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a). It is this period that applicant must demonstrate that payment of the issue fee was unavoidable.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**)the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks item (**3**) above. In order for the petition under 37 CFR 1.137(a) to be considered grantable, Applicant must demonstrate 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 this instance, the relevant period is between July 2, 2005, and continues to run "until the filing of a grantable petition". 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"

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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).

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.

Analysis

Applicant has not provided an adequate showing of unavoidable delay. Applicant asserts that the delay in paying the maintenance fee was unavoidable because the Applicant was ill and unable to work, except part-time work.

Applicant is advised that a showing of "unavoidable" delay based upon illness, hospitalization and financial difficulty must establish that Applicant was ill, hospitalized, and lacked the financial resources to pay the patent fee(s) necessary to continue prosecution of the above-identified application during the relevant time period. Such a showing must be supported by a **complete and thorough** showing of the responsible person's medical history and financial condition during the entire period between July 2, 2005 through the time the instant petition was filed, including medical records, bank records, income (tax records), expenses, assets, credit and obligations, which made the delay in payment of the application issue fee(s) unavoidable. Applicant should provide copies of all documents or records that would confirm the financial difficulty.

Applicant is advised that information provided may become public. Applicant is advised to take precautionary measures, to include redacting personal sensitive information such as social security numbers and account numbers prior to submitting the information to this Office.

Alternative 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).

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Collins Solomon Jr.
1501 W. Hill Avenue
Fullerton, CA 92833

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Collins Solomon Jr.	:	
Application No. 10/751068	:	ON PETITION
Filing or 371(c) Date 01/05/2004	:	
Title of Invention:	:	
ADJUSTABLE PISTON PUMP	:	

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 August 16, 2006 via facsimile, and re-filed January 4, 2007. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed April 1, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on July 2, 2005. A Notice of Abandonment was mailed October 25, 2005.

Applicant has submitted the issue and publication fees on February 16, 2006. Accordingly, the petition is granted.

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

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

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of

L. Damir, et al. :

Application No. 10/751,070

Filed: January 2, 2004 : DECISION ON PETITION

Attorney Docket No. SWAD-1-1002 :

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed April 5, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on October 7, 2005, with a request for an extension of time within the third month. An Advisory Action mailed March 7, 2006, advised petitioner that the response of October 7, 2005, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on October 6, 2006.

The Request for Continued Examination filed August 17, 2006, is noted and made of record

The application is being forwarded to Technology Center 3700, GAU 3765 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 0 2 2007

OFFICE OF PETITIONS

Monte D. Mohr
4300 McNeil Rd
Cameron Park, CA 95682

In re Application of
Monte D. Mohr
Application No.: 10/751,073
Filed: January 5, 2004
Attorney Docket No: MOHR001

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed July 28, 2006, and in duplicate on January 22, 2007.

The petition is DISMISSED.

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

This application became abandoned for failure to respond in a timely manner to the final Office action mailed October 17, 2005, July 13, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). Responses were filed on January 3, 2006, and February 3, 2006. By Advisory Actions mailed January 18, 2006, April 26, 2006, applicant was advised that the responses did not place the application in condition for allowance. The application became abandoned on January 18, 2006. A Notice of Abandonment was mailed on July 17, 2006.

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

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

The petition was not accompanied by a proper response to the final Office action of October 17, 2005. A proper response to the final Office action would include an amendment that places the application in condition for allowance or Request for Continued Examination along with the requisite fee. Petitioner is advised that the response of June 12, 2006, was not considered because it was filed outside the maximum statutory period for reply to the final Office action. If petitioner would like the response considered, petitioner may file the response with the renewed petition. If the examiner determines that the response does not place the application in condition for allowance, the renewed petition under 37 CFR 1.137(b) will be dismissed. Petitioner must file a Request for Continued Examination under 37 CFR 1.114 with a second renewed petition under 37 CFR 1.137(b) to return the application to active examination.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

Questions regarding the amendment to be filed with the renewed petition must be addressed to Examiner Prone. Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 11 2007

OFFICE OF PETITIONS

Monte D. Mohr
4300 McNeil Rd
Cameron Park, CA 95682

In re Application of
Monte D. Mohr
Application No.: 10/751,073
Filed: January 5, 2004
Attorney Docket No: MOHR001

ON PETITION

This is in response to the renewed petition under 37 CFR 1.137(b) filed May 3, 2007.

The renewed petition is DISMISSED.

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

This application became abandoned for failure to respond in a timely manner to the final Office action mailed October 17, 2005, July 13, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). Responses were filed on January 3, 2006, and February 3, 2006. By Advisory Actions mailed January 18, 2006, April 26, 2006, applicant was advised that the responses did not place the application in condition for allowance. The application became abandoned on January 18, 2006. A Notice of Abandonment was mailed on July 17, 2006.

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

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

Examiner Jason Prone has reviewed the amendment filed April 28, 2007, and determined that the amendment does not place the application in condition for allowance. The petition must, therefore, be dismissed. Either an amendment that places the application in condition for allowance, a Request for Continued Examination and the fee required, or a Notice of Appeal must accompany the renewed petition.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

Questions regarding the amendment to be filed with the renewed petition must be addressed to Examiner Prone. Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY -5 2004

In re Application of	:	
Thomas V. Ward Jr., et al.	:	
Serial No. 10/751,075	:	DECISION ON PETITION
Filed: January 2, 2004	:	TO MAKE SPECIAL
For: REPORT COVER WITH IMPROVED	:	
BINDING STRUCTURE AND	:	
METHOD OF MAKING SAME	:	

Applicant's petition, filed January 2, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Meroni and Meroni
P.O. Box 309
Barrington, IL 60011

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
10/751,077	12/30/2003	1744	1824	RYL 2 0745-1	8	69	5

CONFIRMATION NO. 1258

CORRECTED FILING RECEIPT

OC000000014113941

Patrick R. Roche
FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114-2518

Date Mailed: 10/18/2004

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

Applicant(s)

Paul D. Stephens, Twinsburg, OH;
Jeffrey M. Kalman, Cleveland Heights, OH;
Steven J. Paliobeis, Painesville, OH;
Charles J. Thur, Chardon, OH;

Power of Attorney:

Christopher Fagan--22987
Richard Minnich--24175
JAMES WM. MC KEE--26482
Thomas Kocovsky Jr.--28383
Patrick R. Roche--29580
Jay F. Moldovanyi--29678
Philip J. Moy Jr.--31280
Timothy Nauman--32283
Richard M. Klein--33000
Sandra M. Koenig--33722

Domestic Priority data as claimed by applicant

This application is a CON of 10/213,861 08/07/2002
which is a CON of 09/759,437 01/12/2001 PAT 6,532,621

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 US10/751,077

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Vacuum cleaner with noise suppression features

Preliminary Class

015

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

FORD GLOBAL TECH. LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN MI 48126

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SEP 19 2006

Director's Office
Office of Patent Publication

In re Application of :
Cullen, Michael John et al. :
Application No. 10/751,079 : **DECISION ON PETITION**
Filed: January 02, 2004 :
Attorney Docket No. 200-0767 CIP :

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) on May 30, 2006'(37 CFR 1.181.)

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed December 27, 2005. The Notice of Abandonment, mailed on May 3, 2006 indicates'. The submitted fee of $300.00 is insufficient. A balance of $1,400 is due.'

The Office acknowledges receipt of Part B – Fee(s) Transmittal on May 30, 2006, authorizing that the Issue Fee be charged to Deposit Account No. 06-1510. On March 27, 2006, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fee.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 153.

Cheryl Mcleod
Quality Operations Assistant
Office of the Director
Office of Patent Publications

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330 TOWN CENTER DRIVE
DEARBORN, MI 48126

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of

Cullen, et al.

Application No. 10/751,079

Filed: January 2, 2004

Attorney Docket No. 200-0767 CIP(FGT 321CIP)

DECISION ON PETITION

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

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed December 27, 2005. The Notice set forth a three (3) month statutory period for reply. The issue fee was not received within the allowable period. Accordingly, this application became abandoned on March 28, 2006.

The issue fee was received on November 7, 2006.

Form PTOL-85B, filed November 7 2006, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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.

ANTHONY H. HANDAL
KIRKPATRICK & LOCKHART, LLP
599 LEXINGTON AVENUE
31ST FLOOR
NEW YORK, NY 10022-6030

COPY MAILED

OCT 25 2004

OFFICE OF PETITIONS

In re Application of :
Partlow et al. :
Application No. 10/751,086 :
Filed: January 2, 2004 : ON PETITION
Attorney Docket Number: :
PARTLOW2 :

This is in response to the Petition Under 37 CFR § 1.10, 37 CFR § 1.182 and Any Other Applicable Rule to Grant Original Filing Date (Application was Complete), filed September 23, 2004. The petition is properly treated under 37 CFR 1.53.

The petition is dismissed.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.53." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application was filed on January 2, 2004. However, on June 18, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice"), informing Applicant, *inter alia*, that a filing date had been accorded; however, pages 76, 83 and 84 of the specification appeared to have been omitted from the application.

In response to the Notice, Applicant files the instant petition wherein Applicant avers that the application was complete when filed, as acknowledged by postcard, and that the specification pages were subsequently lost by this Office. Applicant also avers page 84 of the description and claims does not exist. In support of these assertions, Applicant files a declaration of Denise Kacinski, dates September 20, 2004, wherein Ms. Kacinski declares that she reviewed the application for completeness.

A review of the instant petition and the application file reveals that no return receipt postcard has been filed with the instant petition. The best evidence of what was filed on January 2, 2004, is applicant's postcard receipt. "If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO.." MPEP § 503.

Regarding the Kacinski declaration, the evidence has been considered, but is not found persuasive that the application was complete when filed on January 2, 2004. The USPTO file is the official record of the papers originally filed in this application. A review of the official file reveals that no pages 76, 83 (or 84) of the specification were filed on January 2, 2004, since no such pages are present in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The declaration relied upon contain the declarants' recall of routine events which occurred 9 months earlier and are not more persuasive than the record of what was filed as shown by the official file.

Conclusion

If pages 76, 83 (or 84) of the specification were not present on the January 2, 2004 filing date, they cannot be considered a part of the original disclosure of the application. Petitioner has failed to satisfactorily demonstrate that pages 76, 83 (or 84) of the specification were present in the Office on January 2, 2004. Therefore, the application cannot be accorded the January 2, 2004 filing date with pages 76, 83 (or 84) of the specification as a part of the original disclosure.

This petition is dismissed without prejudice. If applicant has a copy of his return-receipt postcard, the copy should be filed with a Request for Reconsideration of Petition.

The application is an Image File Wrapper ("IFW"), and as such, no forwarding of the file is necessary.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RANDALL L. OWEN
11523 TREEVIEW COURT
MOORPARK CA 93021

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Azodi	:	
Application No. 10/751,100	:	DECISION ON PETITION
Filed: December 31, 2003	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 5, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, agent no longer working in this technical area, does not meet any the conditions set forth in 37 CFR 10.40.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Mike Louder, Engineer
Johanson Dielectrics, Inc.
15191 Bledsoe Street
Sylmar, CA 91342

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Alexandria, VA 22313-1450
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THOMAS P. LINIAK
LINIAK BERENATO & WHITE
6550 ROCK SPRING DRIVE, SUITE 240
BETHESDA, MD 20817

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JUN 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Christopher Paul Mercer et al	:	
Application No. 10/751,121	:	DECISION ON PETITION
Filed: January 5, 2004	:	TO WITHDRAW
Attorney Docket No. 13047.374	:	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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FISH & RICHARDSON P.C.
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

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OFFICE OF PETITIONS

In re Application of
Clifford A. Wright
Application No. 10/751,128
Filed: January 3, 2004
Attorney Docket No. 14736-021001/788116-1

ON PETITION

This is a decision on the petition, filed May 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 29, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3743 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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FRANK A. LUKASIK
1250 WEST MARION AVENUE #142
PUNTA GORDA FL 33950

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OFFICE OF PETITIONS

In re Application of	:	
Bill Spiegel	:	
Application No. 10/751,140	:	DECISION ON PETITION
Filed: 5 January, 2004	:	
For: LEAK DETECTOR	:	

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

The petition is **GRANTED**.

The application became abandoned on 1 May, 2005, for failure to timely submit the issue and/or publication fee(s) in response to

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. 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 Notice of Allowance and Fee(s) Due mailed on 31 January, 2005, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 20 May, 2005.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:13

DATE : January 12, 2010

TO SPE OF : ART UNIT 3711

SUBJECT : Request for Certificate of Correction on Patent No.: 7,507,169

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:

/Gene Kim/
Supervisory Patent Examiner, Art Unit 3711

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

FOOTHILL LAW GROUP
777 N. FIRST STREET, SUITE325
SAN JOSE, CA 95112

In re Application of
Kenichi K. Yabusaki
Application No. 10/751,181
Filed: December 31, 2003
Attorney Docket No. 03-YAB-117

ON PETITION

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 5, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on January 6, 2006. A Notice of Abandonment was mailed September 11, 2006.

The amendment filed September 17, 2006, is noted.

The address as cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address as cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application is being forwarded to Technology Center 3600, GAU 3643 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:
Howard E. Lebowitz
19682 Hesperian Boulevard
Hayward, CA 94541

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Mar-06

FOOTHILL LAW GROUP, LLP
3333 BOWERS AVE., SUITE 130
SANTA CLARA CA 95054

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OFFICE OF PETITIONS

In re Application of	:	
Kenichi K. Yabusaki	:	DECISION ON PETITION
Application No. 10/751,182	:	
Filed: 31 December, 2003	:	
Attorney Docket No. 03-YAB-115	:	

This is a decision on the petition filed under 37 CFR 1.181 on 31 January, 2006, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **granted**.

The application was held abandoned for failure to submit corrected drawings in response to the Notice of Allowance mailed on 22 September, 2005, which set a three (3) month statutory period for reply. On 2 November, 2005, the issue and publication fees were received. Notice of Abandonment was mailed on 27 January, 2006.

Petitioner asserts that corrected drawings were submitted prior to the mailing of the Notice of Allowability.

A review of record reveals that two sheets of drawings marked "Drawings Corrections Approved" and initialed by the examiner and dated 9/15/05, are included with the Notice of Allowability located in the official file. As such, it is obvious that corrected drawings had previously been received, and that the requirement for corrected drawings in the Notice of Allowability was made in error. The requirement for corrected drawings is hereby withdrawn.

Consequently, there was no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The application has been restored to pending status.

The application is referred to the Publishing Division for processing into a patent.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO, IL 60601

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OFFICE OF PETITIONS

In re Application of	:	
Haitham Matioub et. al.	:	
Application No. 10/751,189	:	ON PETITION
Filed: January 2, 2004	:	
Attorney Docket No. 39217.00.0002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on November 6, 2007, 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 August 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $720 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Data Management to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Charles J. Prescott, P.A.
Suite 115
2033 Wood Street
Sarasota FL 34237

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OFFICE OF PETITIONS

In re Application of
Henry Brian Barry
Application No. 10/751,231
Filed: January 2, 2004
Attorney Docket No. P-1880

DECISIONS ON PETITIONS

This is a decision on the petition under 37 CFR 1.137(a), filed June 6, 2005, to revive the above-identified application, which is first being treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On November 18, 2004, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to respond. In the apparent absence of a timely filed response, the Office mailed a Notice of Abandonment on May 31, 2005.

In the present petition, petitioner asserted that petitioner filed a timely response to the nonfinal Office action via facsimile transmission on January 11, 2005. With the present petition, petitioner submitted copies of a Transmittal Form, an Amendment, and a Transmission Verification Report, and authorized the Office to charge the Deposit Account for any necessary fees.

A review of the copy of the Transmittal Form reveals that petitioner included the following information: the application number; attorney docket number; Examiner's name; the Group Art Unit, and the attorney's name. A further review of the Amendment indicates that petitioner also included the USPTO Central Facsimile Number; the attorney's name, address, telephone number; and a certificate of transmission signed by the attorney and dated January 11, 2005. The Transmission Verification Report shows that 11 pages were successfully transmitted to fax number 1-703-872-9306[1] on January 11, 2005 at 14:27.

[1] The Office notes that petitioner used the correct Central Facsimile Number for transmitting documents to the USPTO, as it existed on January 11, 2005. On July 15, 2005, the Central Facsimile Number changed to 571-273-8300.

37 CFR 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received by the U.S. Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement, which attests on a personal knowledge basis or to the satisfaction of the 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.

In view of the above, the required reply is considered timely filed pursuant to 37 CFR 1.8. Accordingly, petition to withdraw the holding of abandonment is **granted**. The application will be restored to pending status.

The Office has concluded that the USPTO timely received the reply to the nonfinal Office action and that the Notice of Abandonment was mailed in error. Accordingly, the petition under 37 CFR 1.137(a) is **dismissed** as involving a moot issue. The Office did not charge the Deposit Account the fee for filing the petition to revive in the above-reference application.

This matter is being referred to Technology Center Art Unit 3724.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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JUL 2 6 2004
OFFICE OF PETITIONS

In re Application of	:	
Achilefu et al.	:	
Application No. 10/751,232	:	DECISION REFUSING STATUS
Filed: January 2, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. MRD/57CP	:	

This is in response to the petition under 37 CFR 1.47(a), filed June 25, 2004 (certificate of mailing June 23, 2004).

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on January 2, 2004, without an executed declaration. Accordingly, on April 23, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an executed declaration and a surcharge for the late filing of the declaration.

In response, on June 25, 2004 (certificate of mailing June 23, 2004), applicants filed the present petition, a declaration signed by 4 out of 6 joint inventors, and paid the necessary fees.

In the Declaration of Facts, Tammy Torres established that Mr.

Jimenez could not be located after diligent effort. Ms. Torres stated that she performed a web search to obtain his current address and telephone number. Mr. Jimenez's telephone number had been disconnected. Ms. Torres further explained that she sent a letter via Priority Mail to Mr. Jimenez's last known address, which was returned with no forwarding address. A copy of the internet search, the letter to Mr. Jimenez and the returned envelope accompany the petition. Applicants have complied with the requirements set forth in 37 CFR 1.47(a) as to Mr. Jimenez.

As to Dr. Achilefu, Ms. Torres stated that he indicated receipt of the Declaration and Assignment for Application No. 10/751,232 but was unwilling to review the documents without compensation.

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

As to item (1), it appears that Dr. Achilefu was presented with only a copy of the Declaration and Assignment. Unless Dr. Achilefu was presented with a complete copy of the application papers, including the specification, claims and drawings, he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration that he was given. Accordingly, applicants failed to show or provide proof that Dr. Achilefu, the nonsigning inventor, has refused to sign the declaration. See MPEP 409.03(d). To show that the inventor has refused to join in the application, applicants must show that a complete copy of the application papers, including the specification, claims and drawings, was presented to Dr. Achilefu, personally or through his designated representative, and that he did not respond to the request that he sign the declaration.

Applicants have not meet the requirement under 37 CFR 1.47(a) with respect to Dr. Achilefu.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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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	:	
Achilefu et al.	:	
Application No. 10/751,232	:	DECISION ACCORDING STATUS
Filed: January 2, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. MRD/57CP	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 26, 2004.

The petition is granted.

Petitioner has shown that Dr. Samuel Achilefu, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Beverly A. Lyman, Ph.D, Esquire establishes that the inventor was present with the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

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

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

This matter will be referred to Technology Center Art Unit 1616 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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G. VICTOR TREYZ
FLOOD BUILDING
870 MARKET STREET, SUITE 984
SAN FRANCISCO CA 94102

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DEC 28 2004

OFFICE OF PETITIONS

In re Application of	:	
Kumar Panjwani, Dileep	:	
Application No. 10/751,234	:	ON PETITION
Filed: January 2, 2004	:	
Attorney Docket No. SEC-2	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed October 22, 2004, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from **DILEEP KUMAR** to **DILEEP KUMAR PANJWANI.**

This matter is being referred to Technology Center 2100 to await examination.

Telephone inquiries regarding this decision should be directed to Paralegal Liana Chase at (571) 272-3282.

Frances Hicks

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VMWARE, INC.
DARRYL SMITH
3401 Hillview Ave.
PALO ALTO, CA 94304

Mail Date: 04/20/2010

Applicant	: Dileep Kumar Panjwani	: DECISION ON REQUEST FOR
Patent Number	: 7657937	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/751,234	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1339** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Technology Center 2100

Rhonda L. Sheldon
TROP, PRUNER AND HU, P.C.
1616 S. VOSS ROAD
SUITE 750
HOUSTON, TX 77057

In re Application of:
Michael K. Eschmann, et al.
Application No. 10/751,258
Filed: 31 December, 2003
For: COALESCING DISK WRITE BACK REQUESTS

DECISION ON PETITION TO WITHDRAW THE FINALITY OF AN OFFICE ACTION

This paper provides the decision on the petition filed January 29, 2007 under 37 C.F.R. § 1.181 and M.P.E.P. § 706.07 to withdraw the finality of the Office action, mailed October 13, 2006.

The Petition is **GRANTED.**

Applicable Prosecution History

May 4, 2006	Request Continue Examination filed, including amendments to claims 1, 11, and 21.
June 7, 2006	First Office action after RCE. In the office action Office action, claims 1, 11, and 21 were rejected under 35 U,S.C. § 102(b) as being anticipated by Mason, Jr. (6,304,946). The dependent claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mason in view of Mandal (U.S. Application 2003/0088713). These were the only two rejections in the first Office action.
August 10, 2006	Applicant replied to the First Office action. No amendments were made in this reply.
October 13, 2006	Examiner issued a final Office action. In the final Office action the examiner rejected claims 1-30 under 35 U.S.C. § 112 ¶ 1 and under

	35 U.S.C. § 103(a) as being unpatentable over Mason in view of Mandel.
November 3, 2006	Applicant filed a response to the final rejection, requesting that the examiner reconsider the finality of the Office action in view of the new §112 and § 103(a) rejections. Additionally, the applicant amended the independent claims.
November 27, 2006	Examiner issued an advisory action refusing to withdraw the finality of the Office action and refusing entry of the claim amendments.
January 29, 2007	Instant Petition filed, requesting withdrawal of the finality of the office action mailed on October 13, 2006, and requesting entry of the amendment filed on November 3, 2006.

RELIEF REQUESTED

The Applicant respectfully that
1. The finality of the office action mailed on October 13, 2006 be withdrawn.
2. The amendment filed on November 3, 2006 be entered.

OPINION

Petitioner asserts that claims 1-30 were first rejected under 35 USC §112 ¶ 1 in the final office action mailed October 13, 2006, and the independent claims were first rejected under 35 U.S.C. § 103(a) as being unpatentable over Mason in view of Mandel. Petitioner asserts that these new grounds of rejection were not necessitated by any amendment.

ANALYSIS

MPEP 706.07 sets forth that the examiner should never lose sight of the fact that in every case the applicant is entitled to a fair and full hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal; and that in making the final rejection, they [the grounds of rejection] must be clearly developed to such an extent that applicant may readily judge the advisability of appeal unless a single previous Office action contains a complete statement supporting the rejection.

Furthermore, MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the file indicates that the claims were not amended in Applicants' response filed on August 14, 2006 to the non-final action mailed on June 7, 2006. No Information Disclosure statements were filed by Applicant after the mailing of the non-final action mailed on June 7, 2006. However, examiner introduced new grounds of rejection in the final office action mailed October 13, 2006,

1) by rejecting the independent claims under 35 U.S.C. § 103(a) as being unpatentable over Mason in view of Mandel (they were originally rejected under 35 U.S.C. § 102(b) over Mason), and

2) rejecting all the claims 1-30 as being unpatentable under 35 USC §112 ¶ 1 for the first time.

With regard to the propriety of the finality of the office action mailed October 13, 2006, examiner's position that "the new grounds of rejection as necessitated by their amendment in view of their apparent newly intended meaning as reveled within the applicant's current argument, and thereby considered to have sufficiently implicitly amended the claim's meaning and scope beyond that both previously considered and supported by the applicant's original disclosure" does not seem to be proper, since applicants arguments merely points out that while Mason is directed to sequential writes, the claims of the instant application are drawn to "writing back to a disk two **non-sequential** writes as one write operation". There does not seem to be any effort on the Applicants' part to redefine claim terminology as suggested by examiner.

Examiner states that "the applicant's more recent argument implicitly changes the meaning of the use of the term "operation" previously equated with "request" (which as taught may comprise multiple "write accesses"; as also taught by the reference), to apparently meaning that it may not, in apparent contradiction to that originally disclosed.". The term "Operation" was used by applicant in the originally filed claims. If examiner interpreted "Operation" to equate to "Request", such position should have been made known to applicant earlier in the prosecution so that the grounds of rejection may be clearly developed, and issues clearly defined before appeal.

For the above stated reasons, the petition is **GRANTED.** The finality of Office action mailed on October 13, 2006 is hereby withdrawn and the office action is changed to non-final Office action. Applicant's response filed on November 3, 2006 will be treated as a response to the non-final Office action, and the amendments filed with the response of November 3, 2006 will be entered, and the case forwarded to examiner for further action.

Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software,
and Information Security

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-14-09 Paper No.: ____

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/751265 Patent No.: 7122406

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

FOR IFW FILES: Should COC be Approved

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

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

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

Comments: _____

LYNNE GURLEY
SUPERVISORY PATENT EXAMINER

Lynne A. Gurley
SPE

2811
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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MILLER LAW GROUP
AND FORD GLOBAL TECHNOLOGIES, INC.
25 STEVENS AVENUE
WEST LAWN, PA 19609

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MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Yasmin Eloian et al	:	
Application No. 10/751,273	:	ON PETITION
Filed: January 2, 2004	:	
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed October 18, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 19, 2005.

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

This matter is being referred to Publishing Division.

Wan Laymon

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

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

Natan Epstein, Esq.
Law Offices of Natan Epstein
9th Floor
11377 West Olympic Boulevard
Los Angeles CA 90064

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Maer Skegin	:	
Application No.: 10/751280	:	ON PETITION
Filing or 371(c) Date: 12/30/2003	:	
Attorney Docket Number:	:	
DE063	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed March 28, 2007.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed September 20, 2006. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on December 21, 2006. A Notice of Abandonment was mailed April 2, 2007.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2618 for processing of the Amendment filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Natan Epstein, Esq.
Law Offices of Natan Epstein
9th Floor
11377 West Olympic Boulevard
Los Angeles CA 90064

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MAR 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Maer Skegin	:	
Application No. 10/751280	:	DECISION
Filing or 371(c) Date: 12/30/2003	:	ON PETITION
Attorney Docket Number: DE063	:	

This is a decision on the "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed January 9, 2008, 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 [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 Notice of Allowance and Issue Fee Due, mailed September 11, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned December 12, 2007.

Applicant files the present petition and issue and publication fees; however, the issue fee increased effective September 30, 2007, to $720.00 for a small entity.

A Grantable Petition Under 37 CFR 1.137(b)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director

may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The issue fee

As to item (**1**), the balance of the issue fee, $20.00, is required. Applicant is also advised to monitor the fee schedule for any changes, at www.uspto.gov/main/howtofees.htm.

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 should be directed to the undersigned at (571) 272-3232. All other inquiries should be directed to the applicable Office.

Derek L. Woods
Attorney
Office of Petitions

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Natan Epstein, Esq.
Law Offices of Natan Epstein
9th Floor
11377 West Olympic Boulevard
Los Angeles CA 90064

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APR 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Maer Skegin	:	
Application No. 10/751280	:	DECISION
Filing or 371(c) Date: 12/30/2003	:	ON PETITION
Attorney Docket Number: DE063	:	

This is a decision on the renewed Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed March 28, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed September 11, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned December 12, 2007. A Petition to revive was dismissed in a Decision mailed March 24, 2008, for failing to file the complete issue fee.

Applicant files the present renewed petition and the balance of the issue due.

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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OSTRAGER CHONG FLAHERTY &
BROITMAN P.C.
250 PARK AVENUE, SUITE 825
NEW YORK, NY 10177-0899

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JUL 14 2004

OFFICE OF PETITIONS

In re Application of
Wodnicki
Application No. 10/751,290
Filed: January 1, 2004
Attorney Docket No. 126339

ON PETITION

This decision concerns the June 21, 2004 "Petition Requesting Corrected Filing Date" which is being properly treated as a petition under 37 CFR 1.10(d).

The petition is **DISMISSED**.

The petition requests an earlier filing date of December 31, 2003 rather than the presently accorded filing date of January 1, 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" service ("Express Mail") pursuant to the requirements of 37 CFR 1.10.

37 CFR 1.10(d) requires, *inter alia*,[1] a showing, establishing that the requested filing date was the date of deposit of the application in the "Express Mail" service prior to the last scheduled pickup for that day, and, corroborated by evidence from the USPS.[2]

The Office notes the following:

(1) The application transmittal contains a "Certification under 37 CFR 1.10" indicating that the application would be deposited in the "Express Mail" on December 31, 2003 under mailing label number "EV270963240US." However, the petition has not included a true copy of this mailing label. The signed Certificate of Mailing only suggests an intended deposit of the application papers in the "Express Mail" service on that day.

(2) The petition alleges that the USPS substituted counsel's mailing label with one bearing the number "ER714348072US" and the "date-in" of January 1, 2004. Unfortunately, the USPTO has no authority or basis to contradict information provided by the USPS. Such an allegation can only be dealt with, and resolved by, the USPS.

---

1 37 CFR 1.10(d)(1) requires that the petition be filed promptly after the person becomes aware of the incorrect "date-in" entry by the USPS. This requirement is considered met.

2 37 CFR 1.10(d)(3); MPEP section 513 (Rev. 2, May 2004).

US 1079602404P1

Creation date: 07-19-2004
Indexing Officer: EPHAM - ELAINE PHAM
Team: 2800PrintWorkingFolder
Dossier: 10796024

Legal Date: 07-13-2004

No.	Doccode	Number of pages
1	PETDEC	1

Total number of pages: 1

Remarks:

Order of re-scan issued on .....

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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
10/751,292	01/02/2004	1632	1098	CRNC.107055	7	31	2

CONFIRMATION NO. 1596

UPDATED FILING RECEIPT

OC000000013976614

05251
SHOOK, HARDY & BACON LLP
2555 GRAND BLVD
KANSAS CITY,, MO 64108

Date Mailed: 10/01/2004

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

Applicant(s)

Mark A. Hoffman, Lee's Summit, MO;
David P. McCallie JR., Stilwell, KS;

Power of Attorney: The patent practitioners associated with Customer Number **46169**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/509,023 10/06/2003

Foreign Applications

If Required, Foreign Filing License Granted: 05/03/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/751,292

Projected Publication Date: 04/07/2005

Non-Publication Request: No

Early Publication Request: No

Title

Computerized method and system for inferring genetic findings for a patient

Preliminary Class

702

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

GRANTED

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

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

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

NOT GRANTED

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

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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: Patrick Joseph Brooks	: DECISION ON REQUEST FOR
Patent Number	: 7610584	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/751,317	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1540** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Wayne J. Liu
San31 Hyola Dong.
Pohang 790-7-84 KR KOREA, REPUBLIC OF

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AUG 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Wayne (Weijie) J. Liu	:	
Application No. 10/751,323	:	
Filed: January 5, 2004	:	DECISION ON
Title of Invention:	:	PETITION
METHOD AND APPARATUS FOR THIXOTROPIC	:	
MOLDING OF SEMISOLID ALLOYS	:	

This is a decision in response to Petition to Withdraw the Holding of Abandonment, filed October 27, 2005. The delay in trwating this petition is regretted.

The Petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [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 Office Communication mailed February 1, 2005. The Office communication set a one (1) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on March 2, 2005. A Notice of Abandonment was mailed August 24, 2005.

Petition under 37 CFR 1.181(a)

Applicant files the instant petition wherein Applicant avers non-receipt of the Office communication.

Applicable Law, Rules and MPEP

Applicant is advised that an allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.

2. A copy of the file jacket or docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in Applicant's statement.

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).

Analysis

A review of Office records indicate that the non-final Office action was properly mailed to the correspondence address of record. Absent any irregularities in the mail, correspondence is presumed to have been delivered to the correspondence address of record. A review of the file reveals no irregularity in the mailing.

A review of the application papers reveals that on a Response to Request for Corrected Filing Receipt was mailed to the law firm of Wood, Herron & Evans in Cincinnatti, Ohio on July 23, 2004. Thereafter, the subject Office communication was mailed February 1, 2005 to Applicant in Ottowa, Ontario, Canada. On February

25, 2005, approximately 24 days after the subject Office communication was mailed, Applicant filed a Change of Correspondence Address, changing the correspondence address to the above address in the Republic of Korea.

In view of the foregoing, there is a question of whether Applicant had changed his correspondence address prior to filing the Change of Correspondence Address, such that the Office communication may have been lost after receipt at the proper correspondence address of record.

Accordingly, Applicant's assertion, that the Office action was not received, is insufficient to justify withdrawing the holding of abandonment. Applicant must also attest to the fact that a search of the file jacket and docket records indicate that the Notice was not received, and provide a copy of the docket record (or file jacket) where the non-received Notice would have been entered had it been received and docketed.

Moreover, Applicant must provide a statement, under penalty of perjury, attesting to the exact date that Applicant changed his correspondence address. See MPEP 602.

Alternate Venue

Alternatively, Applicant may petition to revive the application based upon unintentional delay. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00.

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

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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IGOR TROITSKI
6971 DANCING CLOUD AVE
HENDERSON NV 98011-5009

5/7/09

In re Application of:
TROITSKI, IGOR et al
Serial No.: 10/751,325
Filed: Jan. 5, 2004
Docket: n/a
Title: METHOD FOR PRODUCTION OF 3D LASER-INDUCED IMAGES WITH INTERNAL STRUCTURE

DECISION ON PETITION

This is a decision on the petition filed on March 5, 2009 seeking to review the Office actions of June 30, 2005 and Feb. 26, 2006 issued by the examiner as incomplete. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is **DISMISSED AS UNTIMELY**.

On pages 13-14 of Paragraph IX and pages 16-22 of Evidence for Conclusion of the March 5, 2009 petition, petitioner requests the Office to review the Office actions in the currently abandoned application because the examiner failed to properly examined the claimed invention and address all limitations in claims 18-27. The examiner failed to answer the applicant's arguments.

A review of the record shows that the instant petition was filed almost three years after the mailing date of the last Office action of Feb. 26, 2006 (final rejection). Pursuant to 37 CFR 1.181(f)[1], the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the requested review and withdrawal of Office actions can not be granted.

With regard to the substantive arguments as set forth on pages 13-14 and pages 16-22 of the petition, the examiner used the applicant's own patent to reject claims 18-27 under 35 USC 102(b) in the rejection. Apparently, petitioner was not satisfied with the examiner's response in

[1] 37 CFR 1.181(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.

her last final-Office action of Feb. 16, 2006. In the petition, the issues presented by petitioner are clearly directed to the propriety of the examiner's rejection of claims 18-27 under 35 USC § 102 (b). The question of whether the examiner has properly considered and interpreted certain claim limitations in the rejection of claims under 35 USC § 102 (b) is clearly an appealable issue under 37 CFR § 41.31(a) (1). According to 37 CFR § 1.181(a)(1)[2], it is clear that petitioner's arguments will not support the requested relief, because the relief requested is simply not the type of relief that can be obtained by petition. The propriety of claim interpretation in a rejection of a claim, ultimately, is to be determined by the Board of Patent Appeals and Interferences in accordance with 37 CFR § 1.181(a) (1).

In view of the record, petitioner's request to review and withdraw the Office action dated Feb. 26, 2006 is dismissed as untimely. Issues regarding the interpretation of claim limitations in the rejection of claims are appealable and will not be decided by petition. The application has been abandoned for failure to respond to the final-Office action of Feb. 26, 2006. Therefore, the application remains abandoned.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS UNTIMELY.

Robert Olszewski, Director
Technology Center 3700

[2] 37 CFR § 1.181(a) (1) states: 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 the 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.

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JUL 01 2005

OFFICE OF PETITIONS

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

In re Application of
Feng Xie, et al.
Application No. 10/751,328
Filed: December 31, 2003
Attorney Docket No. 23564-08653

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 14, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on December 20, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 6, 2005 accompanies this decision on petition.

The request for withdrawal as attorney or agent and change of correspondence address has been accepted.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

This application is being referred to Technology Center Art Unit 2631 for prosecution in due course.

Sherry D. Brinkley

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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Alexandria, VA 22313-1450
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MAIL

JUL 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Rajiv P. Patel
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

In re Application of:
Sekhar Sarukkai et al.
Application No. 10/751,333
Filed: January 2, 2004
For: INTEGRATION OF CONTEXT-SENSITIVE RUN-TIME METRICS INTO INTERGRATED DEVELOPMENT ENVIRONMENTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed June 06, 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. Eason for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
(571) 272-3613

cc: Bill Shaffer
Townsend and Townsend and Crew LLP
379 Lytton Avenue
Palo Alto, CA 94301

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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TECHNOLOGY & INTELLECTUAL PROPERTY STRATEGIES GROUP PC dba TIPS GROUPS
P. O. BOX 1639
LOS ALTOS CA 94023-1639

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JAN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Hickman, Paul L.	:	
Application No. 10/751,334	:	ON PETITION
Filed: December 30, 2003	:	
Attorney Docket No. 59147-8002.US02	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 16, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS); (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.

35 U.S.C. 41(a)(7) and 35 U.S.C. 151 each require payment of the issue fee as a condition of reviving an application abandoned for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee is not an acceptable reply. However, since petitioner did give authorization to charge any additional fees necessary to Deposit Account No. 50-3539, the $700.00 issue fee will be charged.

Petitioner is advised that, once submitted, the issue fee 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]

This matter is being referred to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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

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WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Application of	:
Paul L. Hickman	:
Application No. 10/751,334	: DECISION ON PETITIONS
Filed: December 30, 2003	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 13915.75.2	:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 29, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

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

This application is being forwarded to Technology Center Art Unit 3764 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

David Buecl
Petition 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
10/751,334	12/30/2003	3764	450	13915.75.2	14	3

CONFIRMATION NO. 7600

CORRECTED FILING RECEIPT

22913
Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

OC000000038495700

Date Mailed: 10/28/2009

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

Applicant(s)

Paul L. Hickman, Los Altos Hills, CA;

Power of Attorney: The patent practitioners associated with Customer Number 45965

Domestic Priority data as claimed by applicant

This application is a CON of 09/690,178 10/16/2000 PAT 6,749,537
which is a CIP of 09/273,591 03/22/1999 PAT 6,193,631
which is a CON of 08/766,513 12/13/1996 PAT 6,059,692
which claims benefit of 60/008,603 12/14/1995

Foreign Applications

If Required, Foreign Filing License Granted: 05/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/751,334**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

EXERCISE SYSTEM AND METHOD WITH VIRTUAL PERSONAL TRAINER FOREWARNING

Preliminary Class

482

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/26/2010

Applicant	: Paul L. Hickman	: DECISION ON REQUEST FOR
Patent Number	: 7637847	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/751,334	: 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 **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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BERKELEY LAW & TECHNOLOGY GROUP, LLP
17933 NW Evergreen Parkway, Suite 250
Beaverton OR 97006

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Lovy et al.	:	
Application No. 10/751,340	:	
Filed: 01/03/2004	:	
Attorney Docket No. 005.P001	:	

This is a decision on the petition under 37 CFR 1.47(a) filed July 10, 2008, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventor.[1]

In view of the efforts recounted in the petition to obtain the signature of Daniel Lovy, it is agreed that justice would be served by waiving the requirement for his signature on a supplemental declaration. Accordingly, the petition is **granted.**

The declaration has been accepted on petition. This application does not have any Rule 1.47 status and no such status should appear in the record. This application need not be returned to this Office for any further consideration under Rule 1.47(a).

The Office finance records indicate that petitioners paid a $200.00 fee for filing the present petition. However, the current fee for filing a petition under 37 CFR 1.183 is $400.00. The Office will charge the balance due of $200.00 to the Deposit Account, as authorized

This matter is being referred to Technology Center Art Unit 2619.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

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OFFICE OF PETITIONS

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

In re Application of :
Charles Thomas Cunnyngham :
Application No. 10/751,363 : ON PETITION
Filed: January 5, 2004 :
Attorney Docket NoP06627US01-PHI 1234 :

This is in response to the petition under 37 CFR 1.182, filed May 1, 2007, to withdraw a terminal disclaimer relative to U.S. Patent No. 6,232,535 filed December 28, 2006.

The petition is granted.

Examiner Ashwin Mehta determined that the terminal disclaimer filed December 28, 2006, as to U.S. Patent No 6,232,535, can be withdrawn. The terminal disclaimer is withdrawn, accordingly.

Petitioner is advised that the fee for petition under 37 CFR 1.182 is authorized under 37 CFR 1.17(f). The fee for the instant petition is, therefore, $400.00. Deposit account 26-0084 will be charged an additional $270.00, accordingly.

The application is being directed to Technology Center 1600, GAU 1638 for further processing including entry in the record of the withdrawal of the terminal disclaimer relative to U.S. patent No. 6,232,535 filed December 28, 2006.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

DATE 5/08/07 APPLICATION NUMBER 10/757,363

DOC CODE WFEE DOC DATE 5/29/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

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

Electronic Acknowledgement Receipt

EFS ID:	1733290
Application Number:	10751363
International Application Number:	
Confirmation Number:	2241
Title of Invention: 05/29/2007 CKHLOK 00000095 260084 10751363 130.00 CR 00000005 260084 10751363 400.00 DA	INBRED MAIZE LINE PHJ8R
First Named Inventor/Applicant Name:	Charles Thomas Cunnyngham
Customer Number:	27142
Filer:	Robert Alan Hodgson./Patricia E. Wilson
Filer Authorized By:	Robert Alan Hodgson.
Attorney Docket Number:	P06627US01 - PHI 1234
Receipt Date:	01-MAY-2007
Filing Date:	05-JAN-2004
Time Stamp:	15:05:16
Application Type:	Utility

Payment information:

Submitted with Payment	yes
Payment was successfully received in RAM	$130
RAM confirmation Number	95
Deposit Account	260084
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.16 and 1.17	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part /.zip	Pages (if appl.)
1	Petition for review by the Office of Petitions.	1234C_CUNNYNGHAM_PETITION_05-01-07_RAH.pdf	1594750	no	40
Warnings:					
Information:					
2	Fee Worksheet (PTO-06)	fee-info.pdf	8174	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	1602924		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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SEP 0 4 2007

OFFICE OF PETITIONS

In re Application of :
John W. SAFIAN :
Application No. 10/751,367 : ON PETITION
Filed: January 5, 2004 :
Attorney Docket No. 17698-01 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 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 June 22, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the date of abandonment of this application is September 23, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of June 22, 2006 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 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.

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.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/826,970.

The petition refers to an attached affidavit. No affidavit was received by the Office; however, the petition as filed meets the requirements of 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3754 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

cc: Miles & Stockbridge, P.C.
1751 Pinnacle Drive
Suite 500
McLean, VA 22102-3833

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

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SEP 2 2 2008

OFFICE OF PETITIONS

In re Application of :
John W. **Safian** et al. :
Application No. 10/751,367 :
Filed: January 5, 2004 :
Attorney Docket No. T4289PC-13223US02 :

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2007, to revive the above-identified application. The previous **Grant** mailed September 4, 2007 is hereby **vacated** for the reasons set forth below.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Final Office Action, mailed June 22, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 4, 2007.

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

Petitioner has requested reconsideration of the previous decision on petition mailed September 4, 2007, in view of an affidavit of Jodi L. Yingling, which was to include the "unintentional delay" statement for the petition filed July 19, 2007.

Petitioner, through the affidavit of Jodi L. Yingling (Yingling), asserts the delay was unintentional in that the patent owner had an obligation to notify the licensee if the patent owner declined to continue to prosecute the application and failed to do so. With respect to the affidavit of Yingling, it is noted Yingling does not appear to be the party having the right or authority to reply to avoid abandonment (or not reply) of the application as Yingling is neither an applicant for patent, an intervening assignee of the application, or other party in interest. While, Yingling states the patent owner had an obligation to notify the licensee if the patent owner declined to continue to prosecute the application and failed to do so, Yingling has provided no evidence of such an agreement. Moreover, there is no evidence of record that the inventors of the instant application have assigned their rights to anyone and as such they are considered to be the patent owners. In addition to statements from applicants John W. Safian and Joseph E. Olsavsky, statements from all persons involved in the abandonment of the application including Stuart I. Smith, Peter Kirchoff, Evaristo Gonzalez, Theresa St. John, Ryan M. Flandro, John Tobias, and John Denner and what they knew with respect to assignments, license agreements, and abandonment with respect to the application are required. Petitioner should further explain why the decision to abandon the instant application should not be binding on all parties and why the decision to abandon the instant application was not an intentional delay.

Petitioner has not shown to the satisfaction of the Director that the entire delay herein was unintentional within the meaning of 35 U.S.C. 8 41(a)(7) and 37 CFR 1.137(b).

35 U.S.C. 8 41(a)(7) applies to the situation of the above-identified application (i.e., to the revival of an abandoned application), however, it precludes the Director from reviving the above-identified application. The patent statute at 35 U.S.C. 8 41 (a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. 8 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the. meaning and intent of the statute and regulation.

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

1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989). Here, the showing is that applicant intentionally discontinued prosecution and permitted the application to become abandoned, due to its own conclusion that the application was not worth pursuing.

The showing is further that applicant made no effort to seek revival until after becoming aware of what petitioner characterizes as an "error". The language of both 35 USC 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner... could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997).

However, both the delay herein in filing the reply during prosecution, and in filing the petition after abandonment, are inconsistent with a finding that the entire delay herein was unintentional, such that revival is proper. Simply put, a course of conduct resulting in a delay that is, as here, purposefully chosen does not qualify as unintentional delay.

It is further noted that 35 U.S.C. § 41(a)(7) does not require an affirmative finding that the delay was intentional, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unintentional. Cf. Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960)(35 U.S.C. § 133 does not require the Commissioner to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing); see also In re Application of G, supra (petition under 37 CFR 1.137(b) denied because the applicant failed to carry the burden of proof to establish that the delay was unintentional).

Here, while petitioner contends that the failure to reply during the pendency of the application was an "error", petitioner nevertheless did not even seek revival until there was a change in circumstance long after abandonment, *i.e.*, until petitioner became aware that the licensee was not notified. However, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application. A delay

resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action.

While the entire record has been carefully reviewed, the showing of record is inconsistent with a finding that the entire delay herein was unintentional.

Where the applicant deliberately permits an application to become abandoned (*e.g.*, due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). An intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by: (1) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application; (2) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or (3) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival. Obviously, delaying the revival of an abandoned application, by a deliberately chosen course of action, until the industry or a competitor shows an interest in the invention (a submarine application) is the antithesis of an "unavoidable" or "unintentional" delay. An intentional abandonment of an application, or an intentional delay in seeking either the withdrawal of a holding of abandonment in or the revival of an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to 37 CFR 1.137. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53132 at 53158-59 (October 10, 1997), reprinted at 1203 Off. Gaz. Pat. Office, 65 at 86 (October 21, 1997) (citations omitted).

Where, as here, the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "'unintentional" within the meaning of 37 CFR 1.137(b). See In re Application of G, *supra*. An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind

as to the course of action that should have been taken. See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

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

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

By 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 Phyllis Spivack at 571-272-6052 or in her absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
www.uspto.gov

Joseph E. Zahner
3646 Dover Place
Saint Louis MO 63116

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
JOSEPH EDWARD ZAHNER :
Application No. 10/751,380 : DECISION ON PETITION
Filed: January 05, 2004 :
Attorney Docket No. NR 04-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 28, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on March 29, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee of $ 700 and publication fee of $300; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment and publication fee payment are accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to Jean F. Duverne at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 05/20/2010

Applicant	: Hak-goo Lee	: DECISION ON REQUEST FOR
Patent Number	: 7626957	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/751,436	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/06/2004	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

DICKSTEIN SHAPIRO MORIN & OSHINSKY
2101 L STREET, NW
WASHINGTON, DC 20037

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MAR 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Hongmei Wang et al	:	
Application No. 10/751,443	:	ON PETITION
Filed: January 6, 2004	:	
Attorney Docket No. M4065.0536/P536-B	:	

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 **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 10, 2005, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on December 12, 2005 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed January 3, 2006. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on December 11, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of June 10, 2005 is accepted as having been unintentionally delay.

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

This matter is being referred to Technology Center AU 2814.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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Paper No.

WENDEROTH, LIND & PONACK, LLP
2033 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20006-1021

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SEP 0 8 2004

OFFICE OF PETITIONS

In re Application of
Hiroyuki Yamaoka
Application No. 10/751,450
Filed: January 6, 2004
Attorney Docket Number:
2004_0007

ON PETITION

This is a decision on the Petition Re Drawings, filed May 24, 2004, requesting the above-identified application be accorded a filing date of January 6, 2004.

The petition is granted.

The application was filed on January 6, 2004. On April 9, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), informing Applicant that the application had NOT been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the instant petition and avers that drawings are not required [under 35 U.S.C. §113] because they are not necessary for the understanding or for practice of the invention as claimed.

A review of the file reveals that Petitioner is correct, the specification contains process claims (i.e. claims 7-9). As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure,

directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains process claims; therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In applications filed without all of the drawing figure(s) referred to in the specification, the MPEP § 601.01(g) states that a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In this instance, a petition is not necessary to add the drawing figures. Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See, MPEP § 608.02(a).

In view of the above, the Notice mailed April 9, 2004, was mailed in error and is hereby withdrawn.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of January 6, 2004, and an indication that no drawings were required or present on filing.

A refund of the petition fee has been scheduled as authorized in the instant petition.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

SPE G. Crawford

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/751,474

Paper No.: _____

DATE : 6/15/05

TO SPE OF : ART UNIT 3651

SUBJECT : Request for Certificate of Correction on Patent No.: 6843633

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.

Lamonte Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

change to column 5 denied. Correct as issued.

Grantee omitted correcting the following error:
column 8, line 1, "1" should read --13--.
Phoned Grantee regarding same. Ex Dillon

GENE O. CRAWFORD
SPE
PRIMARY EXAMINER

3651
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

C of C

OIPE JC98 MAY 17 2005 PATENT & TRADEMARK OFFICE

In re Patent of

John W. Pfeiffer et al.

Examiner: J. Dillon

Application Serial No. 10/751,474
now U.S. Patent No. 6,843,633 B2

Issued: September 28, 2004

For: SYSTEM AND APPARATUS FOR FILLING CONTAINERS WITH BULK PARTICULATE MATERIALS

COMMUNICATION ACCOMPANYING REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Certificate
MAY 20 2005
of Correction

Sir:

Grantee of the subject Patent requests the issuance of a certificate of correction in the form as set forth in the draft certification submitted herewith to correct errors in the specification.

Specifically, the dependency of three claims is incorrect. Claim 3 should depend from claim 2, and claims 13-16 and 19-24 should depend from claim 13.

As at least some of the errors are the fault of the Patent Office, it is Applicant's understanding that no fee is due. If however, a fee is necessary, the Commissioner is hereby authorized to credit any overpayment and debit any under payment of fees in connection with this communication to deposit account 19-4375.

Respectfully submitted,

Peter N. Lalos X 6805
Reg. No. 19,789
STEVENS DAVIS MILLER & MOSHER, LLP
1615 L Street, N.W. Suite 850
Washington DC 20036
(202) 785-0100 Telephone
(202) 408-5200 Facsimile

Atty. Dkt. No. PNL21230Div
May 17, 2005

MAY 24 2005

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,843,633 B2

DATED : January 18, 2005

INVENTOR(S) : John W. PFEIFFER et al.

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

Column 5
Line 56, "1" should read --2--.

Column 7
Lines 8, 12, 16, 25, and 27, "1", each occurrence, should read --13--.

Column 8
Lines 7, 13, and 19, "1", each occurrence, should read --13--.

MAILING ADDRESS OF SENDER:

Peter N. Lalos - Stevens, Davis, Miller & Mosher, LLP
1615 L St., N.W.,; Suite 850
Washington, D.C. 20036

PATENT NO. 6,843,633

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

MAY 24 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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of :
Tatsuhiro Sato :
Application No. 10/751,485 : ON PETITION
Filed: January 6, 2004 :
Attorney Docket No. 826.1915

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 23, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP - 7 2004

In re Application of Robert W. Jones Serial Number: 10/751,510 Filed: January 6, 2004 For: GUTTER FOAM FILTER	: : : : :	DECISION ON PETITION

This is a decision on the Petition to Make Special because of Actual Infringement, filed under sections 37 C.F.R. 1.102 and 708.02 II of the MPEP on June 30, 2004, regarding the above-referenced application. The fee required under 37 CFR 1.17(h) has been paid. The petition meets the requirements of section 708.02 II of the MPEP.

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

Should an appeal be taken or this case become involved in interference, then consideration of the appeal or interference will be expedited by the Patent and Trademark Office, contingent upon diligent prosecution by applicant.

After allowance, this case will be given priority for printing. See MPEP 1309.

The petition is **GRANTED.**

Marian C Knode

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

Richard C. Litman
LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
Arlington VA 22215

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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GOWAN INTELLECTUAL PROPERTY
1075 NORTH SERVICE ROAD WEST, SUITE 203
OAKVILLE ON L6M-2G2
CANADA

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JUL 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Miller, Van	:	
Application No. 10/751,535	:	ON PETITION
Filed: January 6, 2004	:	
Attorney Docket No. 1358-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 18, 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.

This matter is being referred to Technology Center 1700 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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HARRITY & HARRITY, LLP
11350 RANDOM HILLS ROAD
SUITE 600
FAIRFAX VA 22030

MAILED

APR 26 2010

OFFICE OF PETITIONS

In re Application of
Sidebottom, et al.
Application No. 10/751,539
Filed: January 6, 2004
Attorney Docket Number: 0023-0180

ON REQUEST FOR
RECONSIDERATION OF
PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed December 29, 2009. Applicants believe that the correct total PTA to date is 1673 days, not 882 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a

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

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment is acknowledged.

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).

The application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,950,606	2005-09-27	10/751,548	2004-01-05	P0313

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	/David H. Hitt/	Date (YYYY-MM-DD)	2009-05-15
Name	David H. Hitt	Registration Number	33182

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6950606
Issue Date: September 27,2005
Application No. 10751548
Filed: January 5,2004
Attorney Docket No. P0313

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 15,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 15,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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.

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

COPY MAILED

APR 19 2005

OFFICE OF PETITIONS

In re Application of Tal Cohen, Paul Giammatteo, John Edwards, Uri Rapoport and Naim Levi Application No. 10/751,551 Filed: January 5, 2004 Attorney Docket No. FOM-140.01 Title: NMR PROBE WITH FLOW RESTRICTION ELEMENT	DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(a)

This is in response to the PETITION UNDER 37 C.F.R. § 1.47(a) filed November 9, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 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 January 5, 2004, with an application data sheet identifying as joint inventors Tal Cohen, Paul Giammatteo, John Edwards, Uri Rapoport and Naim Levi. However, no oath or declaration was filed. Accordingly, on April 9, 2004, the Office mailed a Notice to File Missing Parts of Application requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two month period for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition with a declaration executed by joint inventors Giammatteo and Edwards on behalf of themselves and on behalf of non-signing joint inventors

Cohen, Rapoport and Levi. This response was made timely by an accompanying petition and fee for extension for response within the fifth month.

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

On petition, and by documentary evidence, patent attorney Shaun Montana has set forth the circumstances of the presentation of the application papers to the non-signing inventors. Attorney Montana has shown that by their conduct in not responding, inventors Rapoport and Levi have refused to join in the application. In addition, the petition includes the declaration of Vered Kama-Schefner attesting to inventor Cohen's oral refusal to sign.

However, the petition is not grantable because the declaration submitted is not in compliance with §1.63(a) and (c)(1). 37 CFR § 1.63(a)(3) provides that an oath or declaration filed under § 1.51(b)(2) as a part of a nonprovisional application must identify the country of citizenship of each inventor. As stated in the Notice mailed November 18, 2004, the declaration filed November 9, 2004 does not identify the citizenship of each inventor, and thus, does not satisfy § 1.63(a). The requirement for each inventor's citizenship is statutory, and thus, cannot be waived.

§1.63(c) provides that:

> Unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify:
>
> (1) The mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor;
> ...

The declaration submitted does not include the mailing address of each of the inventors. Such information is supplied on the application data sheet for all of the inventors, except inventor Levi. Thus, it is concluded that as to inventor Levi and the mailing address requirement of § 1.63(c), rule 47 applicants have not satisfied § 1.63(c)(1).

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

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SEP 28 2007
OFFICE OF PETITIONS

In re Application of Helmut Kayan et al Application No. 10/751,579 Filed: January 5, 2004 Attorney Docket No. 2517DIV2CON (203-2449DIV2)	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed September 27, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

It does not appear that the present petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Dana M. Brussel appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that this attorney is authorized to represent the particular party in whose behalf he acts. If Mr. Brussel desires to represent applicant herein, the appropriate power of attorney documents must be submitted.

It is further noted that the petition asks that correspondence in this matter be sent to the address noted on the petition. However, as there is no indication that Mr. Brussel was ever given a power of attorney herein and absent a formal request to change the correspondence address of record, correspondence will continue to be

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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.*

mailed to the address indicated in the request to change the address of record filed on August 1, 2007, which is the above address on this decision. A courtesy copy of this communication is being mailed to the addresses noted on the petition.

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

This matter is being referred to Technology Center AU 3734 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

cc:

Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road - Suite 225
Melville, NY 11747

Chief Patent Counsel
Tyco Healthcare Group
195 McDermott Road
North Haven, CT 06473

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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

Tyco Healthcare Group LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

Mail Date: 04/21/2010

Applicant	: Helmut Kayan	: DECISION ON REQUEST FOR
Patent Number	: 7594920	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/751,579	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **97** 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

1/11/08

Patent No. :7134161
Ser. No. : 10751582
Inventor(s) :Telmo Olavo Campos
Issued : 11/14/06
Title : Mechanical Broom
Docket No. :

Re: Request for Certificate of Correction

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Stephen E. Feldman, P.C.
12 East 41st Street
New York, New York 10017

HR

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OFFICE OF PETITIONS

MICHAEL J. BUCHENHORNER
8540 S.W. 83 STREET
MIAMI FL 33143

In re Application of	:	
David Francis Bacon et al.	:	
Application No. 10/751,595	:	ON PETITION
Filed: January 5, 2004	:	
Attorney Docket No. YOR920030181US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed July 28, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 29, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

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 2165 for appropriate action on the concurrently filed election.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MICHAEL J. BUCHENHORNER
8540 S.W. 83 STREET
MIAMI, FL 33143

Mail Date: 04/20/2010

Applicant	: David Francis Bacon	: DECISION ON REQUEST FOR
Patent Number	: 7624137	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/751,595	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1226** 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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LOEFFLER JONAS & TUGGEY, LLP
755 EAST MULBERRY STREET
SUITE 200
SAN ANTONIO, TX 78212

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Richard L. Watson :
Application No. 10/751,597 :
Filed: January 5, 2004 :
Attorney Docket No. 80337.00013 :

ON PETITION

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed January 12, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 13, 2005.

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

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

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Barry E. Kaplan, Esq.
Myers & Kaplan
Intellectual Property Law, L.L.C.
1899 Powers Ferry Road
Suite 310
Atlanta, GA 30339

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OFFICE OF PETITIONS

In re Application of	:	
Jung You et al.	:	
Application No. 10/751,608	:	DECISION ON PETITION
Filed: January 5, 2004	:	TO WITHDRAW
Attorney Docket No. 30110-RA	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 19, 2005 and February 5, 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 requests were signed by Ashish Patel and Barry E. Kaplan on behalf of all attorneys of record who are associated with customer No. 30184. All attorneys/agents associated with the Customer Number 30184 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 first named inventor Jung You. A courtesy copy of this decision will be mailed to Charles W. Shin with Ever Greenworks Company, Inc. as indicated in the request to withdraw. If this company desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

A non-final Office action which set a three month shortened period for reply was mailed on January 18, 2007. Extensions of time are available under the provisions of 37 CFR 1.136(b). Failure to timely reply will result in the abandonment of the application.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Jung You
1210 Waterville Court
Alpharetta, GA 30022

cc: Charles W. Shin
Ever Greenworks Company, Inc.
3077 McCall Drive
Atlanta, GA 30340

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/751,608	01/05/2004	Jung You	30110-RA

CONFIRMATION NO. 2991

OC000000023249740

30184
MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C.
1899 POWERS FERRY ROAD
SUITE 310
ATLANTA, GA 30339

Date Mailed: 04/05/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/05/2007.

- 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 Gravinet

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

FORMER ATTORNEY/AGENT COPY

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,608	01/05/2004	Jung You		2991

7590 08/01/2007
MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW L.L.C.
1899 POWERS FERRY ROAD
SUITE 310
ATLANTA, GA 30339

EXAMINER
SNIDER, THERESA T

ART UNIT	PAPER NUMBER
1744	

MAIL DATE	DELIVERY MODE
08/01/2007	PAPER

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

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

IFW

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 2 0 2007
PATENT & TRADEMARK OFFICE

Barry E. Kaplan, Esq.
Myers & Kaplan
Intellectual Property Law, L.L.C.
1899 Powers Ferry Road
Suite 310
Atlanta, GA 30339

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APR 1 0 2007

OFFICE OF PETITIONS

In re Application of	
Jung You et al.	
Application No. 10/751,608	DECISION ON PETITION
Filed: January 5, 2004	TO WITHDRAW
Attorney Docket No. 30110-RA	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 19, 2005 and February 5, 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 requests were signed by Ashish Patel and Barry E. Kaplan on behalf of all attorneys of record who are associated with customer No. 30184. All attorneys/agents associated with the Customer Number 30184 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 first named inventor Jung You. A courtesy copy of this decision will be mailed to Charles W. Shin with Ever Greenworks Company, Inc. as indicated in the request to withdraw. If this company desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

A non-final Office action which set a three month shortened period for reply was mailed on January 18, 2007. Extensions of time are available under the provisions of 37 CFR 1.136(b). Failure to timely reply will result in the abandonment of the application.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Jung You
1210 Waterville Court
Alpharetta, GA 30022

cc: Charles W. Shin
Ever Greenworks Company, Inc.
3077 McCall Drive
Atlanta, GA 30340

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SEP - 1 2005

Frank C. Leach, Jr.
P. O. Box 22455
Lexington, KY 40522

In re Application of ALLEN ET AL. Appl. No.: 10/751,620 Filed: January 06, 2004 For: Control Device for a Railroad Car	:	**DECISION ON PETITON FOR SUPERVISORY REVIEW** *37 CFR 1.181*

This is a decision on the petition filed July 23, 2005 for supervisory review of an examiner's action under 37 CFR 1.181. Petitioner requests the relief of withdrawal of the Final Office action mailed June 24, 2005, as well as issuance of a new Office action correcting the deficiencies of the Final Office action detailed in the petition.

The petition is **Granted**.

Petitioner discusses multiple alleged deficiencies with the Office action of June 24, 2005. In particular, petitioner alleges that:

1. The rejection of claim 1 is deficient because the structure relied upon in the reference is not detailed by the examiner in the Office action.
2. The rejection of claim 1 is deficient because the examiner has not pointed out in the references where the motivation to combine is located.
3. The rejection of various dependent claims is deficient because elements of the dependent claims 2-4 and 18 are not detailed in the Office action.
4. The finality of the Office action is improper because applicant's arguments on pages 28-37 of the amendment are not specifically rebutted.
5. The Office action is incomplete due to grammatical errors that appear to be missing sentences.

It is also noted that petitioner refers to two telephone interviews with the examiner, where the examiner allegedly admitted that the features of dependent claims 2-4 and 18 were not shown.

With regard to items 1 and 2 above, it appears that the Office action does satisfy the minimum requirements for a properly constructed rejection, and therefore petitioner is not entitled to the requested relief based on these grounds. The examiner has clearly set forth in the rejection and arguments how the claim is being interpreted, how the reference meets the claim based on this interpretation, and how the references are being combined. While petitioner takes exception with the examiner's interpretation and explains such in the arguments, the correctness of a rejection is subject matter for appeal and not petition. Similarly, the examiner is not required to point out explicit motivation in the references by page and line number, but need only supply a motivating factor for the combination based on the evidentiary record and state of the art as a whole. The fact that petitioner provides lucid and well reasoned arguments rebutting the examiner's interpretation and combination clearly shows that the petitioner understands how the examiner is applying the art but simply does not agree with its application. Upon successful appeal, petitioner is entitled to the relief of a reversal of the rejection, but is not entitled to a new Office action or withdrawal of finality.

With regard to items 3, 4 and 5 above, it appears that the Final Office action is deficient with respect to these items. While the examiner is not required to write a detailed novel-sized explanation where features in the references can clearly be discerned by looking at the figures and/or reading the references, further explanation of the features of dependent claims 2-4 and 18, appears appropriate in this instance. This is particularly true in light of the fact that the examiner's response to petitioner's arguments seems to be concentrated on the issues related to claim 1. With respect to the grammatical errors, it is clear that the Office action is missing text, and is therefore incomplete. For the reasons set forth in this paragraph, the petition is granted.

The Finality of the Office action of June 24, 2005 is hereby withdrawn. The application will be forwarded to the examiner for prompt issuance of a new, complete Office action that particularly addresses the deficiencies described above. In addition, petitioner has referenced two interviews with the examiner where the merits of the application have been discussed, yet there is no interview summary record in the application file. The examiner will be directed to include an interview summary properly recording the substance of these interviews with the new Office action.

Telephone inquiries regarding this decision should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684. Telephone inquiries regarding the status of the claims and other examination related issues should be directed to the examiner of record, Robert McCarry, at (571) 272-6683.

Robert J. Oberleitner
Director, Technology Center 3600

SJM: 9/1/05

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FROM DIRECTORS OFFICE

MAY 09 2006

TECHNOLOGY CENTER 3600

Frank C. Leach, Jr.
P. O. Box 22455
Lexington, KY 40522

In re Application of ALLEN ET AL.
Appl. No.: 10/751,620
Filed: January 06, 2004
For: Control Device For A Railroad Car

DECISION ON PETITON FOR SUPERVISORY REVIEW
37 CFR 1.181

This is a decision on the petition filed February 13, 2006 for supervisory review of an examiner's action under 37 CFR 1.181. Petitioner requests the relief of withdrawal of the finality of the Officer action and issuance of a new complete Office action.

The petition is **Dismissed**.

Petitioner alleges multiple deficiencies in the Office action of January 30, 2006. Upon review of the instant petition, Supervisory Patent Examiner (SPE) Morano initiated an interview with the petitioner to discuss the subject matter of the petition and the art of record in the case. In response to this interview and a request for reconsideration filed April 16, 2006, a Notice of Allowance was mailed on May 3, 2006. Since the application is now allowed, the issue of whether the Final Rejection of January 30, 2006 was premature and incomplete is now moot. Accordingly, applicant's petition is dismissed as such.

Telephone inquiries regarding this decision should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684. Telephone inquiries regarding the status of the claims and other examination related issues should be directed to the examiner of record, Robert J. McCarry, at (571) 272-6683.

John Love
Director, Technology Center 3600
(571) 272-5250

SJM: 5/3/06

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/5/07

Paper No.: _____

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction on Patent No.: 7093544

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.**

IDS References OK?

Thank You For Your Assistance

D. Irvine
Certificates of Correction Branch
Tel. No. 703-308-9590

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:

Note: Both Certificates filed 10/3/06 are Ok – IDS And Drawing Corrections

SPE

3617
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 3, 2006

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 6,947,302 (Toan Le)

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

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

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

Comments:

approved for entry. TL 1/9/06

RICHARD ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800 1/9/06 2824

SPE **Art Unit**

approved 1/9/06

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	6,947,302 B2
APPLICATION NO.	:	10/751,667
ISSUE DATE	:	September 20, 2005
INVENTOR(S)	:	Zvi Regev

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

In the Specification, the following errors are corrected:

Column 2, line 10, "pins where is are" should read --pins which are--;

Column 4, lines 2-3, "is achieve" should read --is achieved--;

Column 4, line 5, "function are" should read --function is--;

Column 4, line 19, "is shown is shown" should read --is shown--;

Column 6, lines 6, "OR gate to sum" should read --OR gate, used to sum--;

Column 6. line 8, "T516, connected" should read --T516 connected--;

Column 6, line 20, "are be connected" should read --are connected--;

Column 7, line 1, "600 include" should read --600 includes--;

Column 7, lines 11-12, "an miscellaneous" should read --a miscellaneous--;

Column 7, line 13, "an legacy" should read --a legacy--; and

Column 7, line 29, "to one additional" should read --to additional--.

In the Claims, the following errors are corrected:

Claim 7, column 8, line 14, "logically combined" should read --logically combining--;

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Thomas J. D'Amico
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 1
2101 L Street NW
Washington, DC 20037-1526

approved 1/9/06

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

Claim 7, column 8, line 17, "logically combined" should read --logically combining--;

Claim 8, column 8, line 20, "claim 1" should read --claim 7--; and

Claim 12, column 8, line 35, "combined an" should read --combined in an--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Thomas J. D'Amico
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 2
2101 L Street NW
Washington, DC 20037-1526

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

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OCT 2 4 2006

OFFICE OF PETITIONS

In re Application of	:	
COSIC	:	
Application No. 10/751,677	:	DECISION ON PETITION
Filed: January 05, 2004	:	TO WITHDRAW
Attorney Docket No. 13409-003001	:	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 03, 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 Paul A. Pysher on behalf of all attorneys of record who are associated with customer No. 26161.

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

All future correspondence will be directed to the first named inventor Jasmin Cosic at the address indicated below.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Jasmin Cosic
39 Benefit Street
Pawtucket, RI 02861

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/751,677	01/05/2004	Jasmin Cosic	13409-003001

CONFIRMATION NO. 9536

OC000000020928394

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 10/23/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/03/2006.

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

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

Kyle M. Globerman
Nelson Mullins Riley & Scarborough, LLP
P.O. Box 11070
Columbia SC 29211

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OFFICE OF PETITIONS

In re Application of
William D. Curet and Gregory S. Smith
Application No. 10/751,692
Filed: January 5, 2004
Attorney Docket No. 20601/09008-DIV
Title: ADJUSTABLE SHOELACE

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 August 2, 2004.

On January 5, 2004, the application was deposited with an executed declaration which was associated with the parent application, identifying William D. Curet and Gregory S. Smith as joint inventors. On August 2, 2004, applicant was mailed a "Notice of Informal Application - Filing Date Granted" (Notice), requiring a newly executed oath or declaration in compliance with 37 C.F.R. §1.63, as the submitted declaration failed to identify the citizenship of the inventors. This Notice set a two-month period for reply.

With the instant petition, Petitioner has submitted the petition fee, a declaration which has been executed by Mr. Smith, a statement of facts which sets forth the last known address of the non-signing inventor, and a copy of the letter which was sent to the non-signing inventor.

1A grantable petition under 37 C.F.R. §1.47(a) requires:

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

Petitioner has met requirement (1) above. The second requirement above does not apply.

First, the declaration fails to comply with 37 C.F.R. §1.63, in that the residential addresses for both of the inventors are incomplete. Each of them lists merely a city and state, as opposed to a complete address.

Furthermore, it is noted that Petitioner has indicated that the last known address of the non-signing joint inventor is "214 Clara Street, Jennings, Louisiana, 70546." The declaration lists "3484 Koll Road, Jennings, Louisiana, 70546" as the post office address. The letter contains this same address.

As such, Petitioner has filed conflicting statements as to where the non-signing inventor normally receives his mail. If the last known address is to be believed, it is not clear why Petitioner listed an incorrect address on the declaration, although this would certainly explain why the inventor never responded to a letter which was mailed to the same. Petitioner will need to correct the address on the declaration, and send the letter to the correct address. On the other hand, if the address listed on the declaration is correct, a new statement of the last-known address is required. Either way, Petitioner should explain why these conflicting statements appear in the petition.

Based on the above, Petitioner has failed to meet requirements (5) and either (3) or (4) above.

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 display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[2], hand-delivery[3], or facsimile[4].

It is noted that Petitioner is not listed as an attorney of record, and 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

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.

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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski

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

cc: Kyle M. Globerman
Nelson Mullins Riley & Scarborough, LLP
1320 Main Street
Columbia, SC 29201

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

Kyle M. Globerman
Nelson Mullins Riley & Scarborough, LLP
P.O. Box 11070
Columbia SC 29211

COPY MAILED

DEC 14 2004

OFFICE OF PETITIONS

In re Application of
William D. Curet and Gregory S. Smith
Application No. 10/751,692
Filed: January 5, 2004
Attorney Docket No. 20601/09008-DIV
Title: ADJUSTABLE SHOELACE

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

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed October 29, 2004.

On January 5, 2004, the application was deposited with an executed declaration which was associated with the parent application, identifying William D. Curet and Gregory S. Smith as joint inventors. On August 2, 2004, applicant was mailed a "Notice of Informal Application - Filing Date Granted" (Notice), requiring a newly executed oath or declaration in compliance with 37 C.F.R. §1.63, as the submitted declaration failed to identify the citizenship of the inventors. This Notice set a two-month period for reply.

With the original petition, submitted to the Office on August 2, 2004, Petitioner submitted the petition fee, a declaration which has been executed by Mr. Smith, a statement of facts which sets forth the last known address of the non-signing inventor, and a copy of the letter which was sent to the non-signing inventor.

1A grantable petition under 37 C.F.R. §1.47(a) requires:

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

The original petition was dismissed via the mailing of a decision on September 7, 2004 for failure to properly indicate the residential address and for failure to list the same address as the last known address and the address listed on the declaration.

With the renewed petition, Petitioner has persuaded the undersigned that the residential address is correctly listed, and sufficiently explained the discrepancy.

As such, the renewed petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

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

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

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 25 2007

OFFICE OF PETITIONS

STEVENS & SHOWALTER LLP
7019 CORPORATE WAY
DAYTON, OH 45459-4238

In re Patent No. 6,820,569 :
Issue Date: November 23, 2004 :
Application No. 10/751,696 : NOTICE
Filed: January 5, 2004 :
Attorney Docket No. BEN 001 NA :

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.

The address cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address cited on the petition, all future correspondence will be mailed solely to the address cited on the petition until appropriate written instructions to contrary are received.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Eric Groen
Baker & Daniels LLP
Suite 2700
300 North Meridian Street
Indianapolis, IN 46204

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **5/6/09**

TO SPE OF : ART UNIT **1645 (1600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/751,702** Patent No.: **7,479,282**

Attn: Nita Minnifield

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

/Robert B.Mondesi/ **1645**
SPE_Robert Mondesi
AU 1645

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **5/6/09**

TO SPE OF : ART UNIT **1645 (1600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/751,702** Patent No.: **7,479,282**

Attn: Nita Minnifield

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FOR PAPER FILES:

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

~~ROBERT MONDESI~~
SUPERVISORY PATENT EXAMINER

/Robert B.Mondesi/ **1645**
SPE_Robert Mondesi
AU 1645
5/7/09

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAUL L. BROWN
EMRICH & DITHMAR, LLC
125 SOUTH WACKER DRIVE, SUITE 2080
CHICAGO IL 60606-4401

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APR 14 2006

OFFICE OF PETITIONS

In re Application of :
Rolla :
Application No. 10/751,707 : ON PETITION
Filed: January 5, 2004 :
Attorney Docket Number: 114

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of June 15, 2005. An amendment and two month extension of time fee were filed on November 15, 2005. A Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on January 18, 2006 which set an extendable reply period of one month. This application became abandoned on January 19, 2006. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 3600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/6/09

Paper No.: 20090730

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/751710 Patent No.: 6946718 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: _____

Steven Loke — **SPE**

2818 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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DEC 3 1 2007

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,208,020 :
Issue Date: April 24, 2007 :
Application No. 10/751,716 :
Filed: January 5, 2004 :
Attorney Docket No. 03530.000004 :

This is a decision on the petition filed November 20, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Petitioner has submitted a $400.00 petition fee. Pursuant to petitioner's request $270.00 is being refunded. The certificate of correction pursuant 37 CFR 1.20 (a) fee is $100.00 and the processing fee pursuant to 37 CFR 1.17(i) is $130.00. A petition fee is no longer required.

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

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

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

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

ALIX YALE & RISTAS LLP
750 MAIN STREET, SUITE 1400
HARTFORD CT 06103

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DEC 28 2007

OFFICE OF PETITIONS

In re Application of :
OR, et al. :
Application No. 10/751,718 :
Filed: January 5, 2004 :
Attorney Docket No. **MCHK/149/US** :

DECISION ON PETITION

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

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 17, 2006, which set a shortened statutory period for reply of (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; 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 $510 extension of time fee submitted with the petition on April 12, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to the petitioner's deposit account.

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

The application file is being referred to Technology Center Art Unit 2834.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

MAR 3 0 2010

OFFICE OF PETITIONS

In re Application of	:
Uri Elzur	: DECISION ON PETITION
Application No. 10/751,732	: UNDER 37 CFR 1.78(a)(3)
Filed: January 2, 2004	: AND 37 CFR 1.78(a)(6)
Attorney Docket No. 14230US03	:

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed January 21, 2010, 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 amendment filed March 13, 2009.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed on January 2, 2004 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The intermediate nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional applications for which priority is claimed.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

This matter is being referred to Technology Center Art Unit 2443 for appropriate action on the amendment submitted March 13, 2009, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: **ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/751,732	01/02/2004	2443	1496	14230US03	46	6

CONFIRMATION NO. 3592

CORRECTED FILING RECEIPT

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

OC000000040873600

Date Mailed: 03/30/2010

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)

Uri Elzur, Irvine, CA;

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/437,887 01/02/2003
and claims benefit of 60/456,322 03/20/2003
and is a CIP of 10/230,643 08/29/2002 PAT 7,295,555
which claims benefit of 60/363,381 03/08/2002
and claims benefit of 60/363,356 03/11/2002
and claims benefit of 60/372,851 04/16/2002
and claims benefit of 60/372,852 04/16/2002

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/751,732**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System and method for handling transport protocol segments

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Sajani Swamy, et al.	:	
Application No. 10/751,750	:	DECISION ON PETITION
Filed: January 5, 2004	:	TO WITHDRAW
Attorney Docket No. 50111/037002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed February 9, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Clark & Elbing, LLP has been revoked by the assignee of the patent application on February 15, 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 Wise

April M. Wise
Petitions Examiner
Office of Petitions

cc: MATTHEW J. MARQUARDT
TORYS, LLP
79 WELLINGTON STREET WEST
TORONTO, ONTARIO M5K 1N2
CANADA

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
10/751,750	01/05/2004	Sajani Swamy	50111/037002

CONFIRMATION NO. 5623

OC000000024854335

21559
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

Date Mailed: 07/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/15/2007.

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

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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ZAGORIN O'BRIEN GRAHAM LLP
7600 N. CAPITAL OF TEXAS HWY.
SUITE 350
AUSTIN, TX 78731

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APR 11 2006
OFFICE OF PETITIONS

In re Application of	:
Donald Michael Cardina et al	:
Application No. 10/751,764	: DECISION GRANTING PETITION
Filed: January 5, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 037-0020	:

This is a decision on the petition, filed January 11, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on June 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 July 20, 2006, has been mailed under separate cover.

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

This application is being forwarded to Technology Center Art Unit 2153 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No.

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

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MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
Rong-Kun Chang et al. :
Application No. 10/751,766 :
Filed: January 5, 2004 :
Attorney Docket No.: 063089-0136 :
Title: USE OF A MIXTURE OF TWO OR MORE ENTERIC MATERIALS TO REGULATE DRUG RELEASE VIA MEMBRANE OR MATRIX FOR SYSTEMIC THERAPEUTICS :

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)[1], filed February 1, 2008, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 11, 2007, which set a shortened statutory period for reply

1 A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 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.

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 September 12, 2007. A notice of abandonment was mailed subsequent to this filing of this petition on February 5, 2008.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has submitted the petition fee, a statement that is being construed as the proper statement of unintentional delay, and an amendment. A terminal disclaimer is not required.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was filed concurrently with this petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/751,766	01/05/2004	Rong-Kun Chang	SHLI-033-002

CONFIRMATION NO. 2282

POA ACCEPTANCE LETTER

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

OC000000029077705

Date Mailed: 03/25/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/01/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/pashanoski/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 29 2004

OFFICE OF PETITIONS

In re Application of	:	
Gary L. Hensley et al	:	
Application No. 10/751,774	:	DECISION ON PETITION
Filed: January 5, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 02/23929	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2004, to revive the instant nonprovisional application for failure to timely notify 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 is **DISMISSED**.

Any request for reconsideration of this decision must be filed within TWO MONTHS from the mail date of this decision. Extensions of time are available pursuant to the provisions of 37 CFR 1.136(a).

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

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition fails to comply with item (1) above. More specifically, while notification has been given of the foreign filing, the petition fails to state the date of such foreign filing. Accordingly, the date of foreign filing must be supplied before the Office can make a decision on the appropriateness of the instant petition to revive.

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 Window located at:

U.S. Patent and Trademark Office
220 20th street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

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

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

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LIBERTY, TX 77575

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MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Gary L. Hensley et al	:	
Application No. 10/751,774	:	DECISION GRANTING PETITION
Filed: January 5, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. HUTC.36	:	

This is a decision on the renewed petition, filed August 4, 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 January 8, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The 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 previously rescinded.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This application is being forwarded to Technology Center Art Unit 1723 for examination in due course.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL J. BUCHENHORNER
8540 S.W. 83 STREET
MIAMI FL 33143

MAILED

OCT 22 2009

OFFICE OF PETITIONS

In re Application of	:	
David Francis Bacon, et al.	:	
Application No. 10/751,793	:	DECISION ON PETITION
Filed: January 5, 2004	:	
Attorney Docket No. YOR920030179US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 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, June 27, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 28, 2008. The Notice of Abandonment was mailed April 2, 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 $1,620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2165 for appropriate action by the Examiner in the normal course of business on the reply received

Terri Johnson
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
FROM DIRECTORS OFFICE

JUL 26 2004

TECHNOLOGY CENTER 3600

Edwin H. Crabtree
3773 Cherry Creek N. Drive
Suite 575
Denver, CO 80209

In re application of
Gilman A. Hill
Application No. 10/751,814
Filed: January 05, 2004
For: METHOD FOR GROWTH OF A HYDRAULIC FRACTURE ALONG A WELL BORE ANNULUS AND CREATING A PERMEABLE WELL BORE ANNULUS

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on January 05, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a declaration signed by Mr. Hill indicating that he is at least 65 years of age.

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/pav: 7/17/04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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SHOOK, HARDY & BACON L.L.P.
(Cerner Corporation)
Intellectual Property Department
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

Mail Date: 04/21/2010

Applicant	: Douglas S. McNair	: DECISION ON REQUEST FOR
Patent Number	: 7617115	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/751,820	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **777** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Hua Wang :
Application No. 10/751,823 : ON PETITION
Filed: January 5, 2004 :
Attorney Docket No. RD29605-4 :

This is a decision on the petition, filed August 28, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed August 12, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on August 10, 2006. In response, on August 28, 2006, the present petition was filed, as well as a Request for Continued Examination (RCE) under 37 CFR 1.114.

Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. Therefore, the RCE filed August 28, 2006 is considered improper. Since the RCE was accompanied by an amendment, the reply will be considered under 37 CFR 1.111. The $790 filing fee paid for the improper RCE is being credited to counsel's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of an amendment; (2) the petition fee of $1,500; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 1711 for consideration of the amendment filed August 28, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 27 2004

In re Application of
FIELD et al.
Serial Number: 10/751,838
Filed: January 5, 2004
For: CHEMICAL DISPENSING METHOD FOR A HARD SURFACE CLEANER

PETITION UNDER M.P.E.P.708.02 V

This is in response to the petition filed January 5, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 V of the MPEP and 37 CFR 1.102(c) (**no fee required**).

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

Accordingly the petition is **GRANTED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Brian D. Kaul
Westman, Champlin & Kelly
Suite 1600
900 Second Avenue South
Minnneapolis, MN 55402-3319

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United States Patent and Trademark Office
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MAY 27 2010

OFFICE OF PETITIONS

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

In re Application of Hedley et al.	:	
Application No. 10/751,845	:	On Application For
Filing Date: January 5, 2004	:	Patent Term Adjustment
Attorney Docket No. 08191-0013002	:	

This is in response to the "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(b)" filed January 8, 2010. Applicants submit the correct patent term adjustment to be indicated on the patent is one thousand four hundred sixty-two (1,462), not six hundred sixteen (616) as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent,

the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

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

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

MAILED

JUN 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Mary Lynne Hedley, et al.	:	
Application No. 10/751,845	:	DECISION GRANTING PETITION
Filed: January 5, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 08191-013002	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 29, 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 January 8, 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 concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1633 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SAN FRANCISCO CA 94111-3834

COPY MAILED

JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Muhammad Chishti et al	:	
Application No. 10/751,847	:	ON PETITION
Filed: January 5, 2004	:	
Attorney Docket No. 018563-005220US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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 filed March 31, 2005.

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

The application file is being forwarded to Files Repository.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

Daniel W. Ernsberger
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306 Fourth Avenue
Pittsburgh PA 15222

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OCT 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Brian T. Scales :
Application No. 10/751,862 : DECISION ON PETITION
Filed: January 7, 2004 :
Attorney Docket Number: 00-0062 :
Title: HI-LO BI-TRACK SYSTEM :

This is a decision on the petition filed October 5, 2005, under 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed February 4, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 5, 2005. A Notice of Abandonment was mailed September 12, 2005.

With the present petition, Petitioner has submitted the required response and the petition fee. Petitioner has met requirements (1) and (2) of 37 C.F.R. §1.137(a). Petitioner has further included a terminal disclaimer, which will not be entered as the fourth requirement is not applicable.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

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1 A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to 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 was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[2]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[3]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[4]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[5]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[6] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[7]

Nonawareness of a PTO rule will not constitute unavoidable delay[8]The burden of showing the cause of the delay is on the person seeking to revive the application[9].

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2 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon; Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

3 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

4 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

5 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

6 Id.

7 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

8 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)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[10].

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present[11].

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[12]."

The portions of the CFR and the MPEP relevant to the abandonment of this application

37 C.F.R. § 1.8 sets forth, in part:

(a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

...

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earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

9 Id.

10 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

11 In re Mattullath, 38 App. D.C. at (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).

12 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

(b) 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.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

[41 FR 43721, Oct. 4, 1976; 43 FR 20461, May 11, 1978; para. (a). 47 FR 47381, Oct. 26, 1982, effective Oct. 26, 1982; para. (a),48 FR 2708, Jan. 20, 1983; para. (a) 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (a), 49 FR 5171, Feb. 6, 1985, effective Mar. 8, 1985; 52 FR 20046, May 28, 1987; subparas. (a)(2)(xiv)-(xvi), 54 FR 37588, Sept. 11, 1989, effective Nov. 16, 1989; revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; para. (a) revised, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (a)(2)(i)(A) & (b) revised; 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a)(2)(i)(F) revised, 67 FR 520, Jan. 4, 2002, effective Apr. 1, 2002; para. (b)(3) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(2)(ii) removed and reserved, 68 FR 48286, Aug. 13, 2003, effective Sept. 12, 2003; para. (a)(2)(i)(B) removed and reserved and para. (a)(2)(i)(C) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004; paras. (a) and (b) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

Section 512 of the MPEP sets forth, in part:

Under 37 CFR 1.8, a person may state on certain papers directed to the Office (>some< exceptions are stated in 37 CFR 1.8), the date on which the paper will be deposited in the United States Postal Service or transmitted by facsimile. If the date stated is within the period for reply, the reply in most instances will be considered to be timely. This is true even if the paper does not actually reach the Office until after the end of the period for reply. The Certificate of Mailing procedure does not apply to papers mailed in a foreign country.

The Certificate of Transmission procedure, however, also applies to papers transmitted to the Office from a foreign country provided that the correspondence being transmitted is not prohibited from being transmitted by facsimile and is not otherwise precluded from receiving the benefits under 37 CFR 1.8.

37 C.F.R. § 1.134: Time period for reply to an Office action.

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.

[47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

37 CFR §1.135: Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136,

the application will become abandoned unless an Office action indicates otherwise.

(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. 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.

Application of the standard to the current facts and circumstances

Petitioner has asserted that he received the non-final Office action of February 4, 2005, prepared a response, and timely mailed said response, but "the reply was lost in the mail[13]."

In order to support his assertion that a response was timely prepared, Petitioner has submitted copies of his time sheets, presumably prepared for client-billing purposes, so as to establish that the response was worked on in a timely fashion.

It is noted that the issue is not whether the response was prepared in a timely fashion, but rather whether the response was mailed to the Office in a timely fashion. For this purpose, Petitioner has submitted a "postage record," on which appears the entry "4/15/05 – Scales – 03-0062 – .83 + 2 – RT." Presumably, this has been submitted to establish that on April 15, 2005, the application associated with docket number 03-0062 was mailed to the Office.

This argument is not persuasive, for the following reasons.

First, the copy of the response purportedly submitted on April 15, 2005 is dated "April 15, 2005," but it does not appear to contain a certificate of mailing pursuant to 37 C.F.R.§1.8. The PTO has a well established and well publicized practice by which practitioners may provide proof that papers were submitted to the Office on a particular date. Any papers which are required to be filed in the PTO within a set period of time will be considered as being timely filed if a certificate of mailing is properly prepared and executed.

Furthermore, pursuant to 37 C.F.R. §1.8(b), reproduced above, certificate of mailing practice provides relief to applicants in the event that correspondence is not received by the Office. However, since the piece of correspondence fails to contain a certificate of mailing, Petitioner cannot produce the certificate required by 37 C.F.R. §1.8(b)(2), and therefore Petitioner cannot avail himself of certificate of mailing practice.

Submission of a postage record cannot stand in the place of a certificate of mailing.

Secondly, *assuming arguendo* that a copy of a postage record could be used to establish that a particular item was submitted to the Office on a particular date, the postage record Petitioner has supplied cannot establish that the mailing was associated with the present application. The postage record does not list the serial number associated with the mailing, but rather the Attorney

13 Petition, paragraph (2)(d).

Docket Number, which is listed as "03-0062." However, it is noted that on the transmittal sheet which accompanied this application on filing, the attorney docket number was listed as "00-0062," and on both the declaration and the Information Disclosure Sheet, which were provided on filing, it appears as "02-0062." In the present petition, the attorney docket number is listed as "02-0062." In other words, it appears that the present application has been referred to by multiple attorney docket numbers, but it does not appear that "03-0062" appears anywhere save on this postage record. As such, it does not appear that "03-0062" refers to the present application.

For these reasons, Petitioner is not able to characterize the abandonment as "unavoidable."

It follows that the renewed petition must be **DISMISSED**.

Any request for a renewed petition under 37 C.F.R. §1.137(a) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The response should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a) *(or §1.137(b), if applicable)*". 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[14], hand-delivery[15], or facsimile[16].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Alternate venue

Petitioner may also wish to consider filing a petition under the unintentional standard, 37 CFR §1.378(b)[17]. Petitioner should be made aware that although the surcharge is significantly higher, the standard associated with a petition filed under this section is far less stringent than the standard associated with a delay asserted to be "unavoidable". A form for this petition may be located at http://www.uspto.gov/web/forms/sb0064.pdf

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

15 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

16 (571) 273-8300- please note this is a central facsimile number.

17 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.

Notice regarding fees:

Historically the fees that the USPTO charges for doing business increase at the beginning of each fiscal year (October 1). Please be advised that applicants should monitor the USPTO website for future updates whenever any necessary money is sent[18].

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

18 For more information, see www.USPTO.gov.

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OFFICE OF PETITIONS

Daniel W. Ernsberger
Union Bank Building, Suite 300
306 Fourth Avenue
Pittsburgh PA 15222

In re Application of
Brian T. Scales
Application No. 10/751,862
Filed: January 7, 2004
Attorney Docket Number: 00-0062
Title: HI-LO BI-TRACK SYSTEM

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

This is a decision on the renewed petition filed December 17, 2005, under 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed February 4, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 5, 2005. A Notice of Abandonment was mailed September 12, 2005.

The original petition was submitted on October 5, 2005, and was dismissed via the mailing of a decision on October 25, 2005. With the original petition, Petitioner submitted the required response and the petition fee, thus meeting requirements (1) and (2) of 37 C.F.R. §1.137(a).

With this renewed petition, Petitioner has submitted additional arguments, as well as a declaration of facts.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

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1 A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to 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 was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[2]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[3]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[4]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[5]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[6] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[7]

Nonawareness of a PTO rule will not constitute unavoidable delay[8] The burden of showing the cause of the delay is on the person seeking to revive the application[9].

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2 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

3 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

4 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

5 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

6 Id.

7 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

8 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)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[10].

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present[11].

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[12]."

The portions of the CFR and the MPEP relevant to the abandonment of this application

37 C.F.R. § 1.8 sets forth, in part:

(a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

...

---

prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

9 Id.

10 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

11 In re Mattullath, 38 App. D.C. at (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).

12 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

(b) 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.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

[41 FR 43721, Oct. 4, 1976; 43 FR 20461, May 11, 1978; para. (a). 47 FR 47381, Oct. 26, 1982, effective Oct. 26, 1982; para. (a),48 FR 2708, Jan. 20, 1983; para. (a) 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (a), 49 FR 5171, Feb. 6, 1985, effective Mar. 8, 1985; 52 FR 20046, May 28, 1987; subparas. (a)(2)(xiv)-(xvi), 54 FR 37588, Sept. 11, 1989, effective Nov. 16, 1989; revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; para. (a) revised, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (a)(2)(i)(A) & (b) revised; 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a)(2)(i)(F) revised, 67 FR 520, Jan. 4, 2002, effective Apr. 1, 2002; para. (b)(3) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(2)(ii) removed and reserved, 68 FR 48286, Aug. 13, 2003, effective Sept. 12, 2003; para. (a)(2)(i)(B) removed and reserved and para. (a)(2)(i)(C) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004; paras. (a) and (b) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

Section 512 of the MPEP sets forth, in part:

Under 37 CFR 1.8, a person may state on certain papers directed to the Office (>some< exceptions are stated in 37 CFR 1.8), the date on which the paper will be deposited in the United States Postal Service or transmitted by facsimile. If the date stated is within the period for reply, the reply in most instances will be considered to be timely. This is true even if the paper does not actually reach the Office until after the end of the period for reply. The Certificate of Mailing procedure does not apply to papers mailed in a foreign country.

The Certificate of Transmission procedure, however, also applies to papers transmitted to the Office from a foreign country provided that the correspondence being transmitted is not prohibited from being transmitted by facsimile and is not otherwise precluded from receiving the benefits under 37 CFR 1.8.

37 C.F.R. § 1.134: Time period for reply to an Office action.

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.

[47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

37 CFR §1.135: Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. 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.

Application of the standard to the current facts and circumstances

With the original petition, Petitioner asserted that he received the non-final Office action of February 4, 2005, prepared a response, and timely mailed said response, but "the reply was lost in the mail[13]." In order to support his assertion that a response was timely prepared, Petitioner submitted copies of his time sheets, presumably prepared for client-billing purposes, so as to establish that the response was worked on in a timely fashion.

The decision on the original petition set forth:

> It is noted that the issue is not whether the response was prepared in a timely fashion, but rather whether the response was mailed to the Office in a timely fashion. For this purpose, Petitioner has submitted a "postage record," on which appears the entry 4/15/05 – Scales – 03-0062 – .83 + 2 – RT." Presumably, this has been submitted to establish that on April 15, 2005, the application associated with docket number 03-0062 was mailed to the Office.
>
> This argument is not persuasive, for the following reasons.
>
> First, the copy of the response purportedly submitted on April 15, 2005 is dated "April 15, 2005," but it does not appear to contain a certificate of mailing pursuant to 37 C.F.R.§1.8.
> The PTO has a well established and well publicized practice by which practitioners may provide proof that papers were submitted to the Office on a particular date. Any papers which are required to be filed in the PTO within a set period of time will be considered as being timely filed if a certificate of mailing is properly prepared and executed.
>
> Furthermore, pursuant to 37 C.F.R. §1.8(b), reproduced above, certificate of mailing practice provides relief to applicants in the event that correspondence is not received by the Office. However, since the piece of correspondence fails to contain a certificate of mailing, Petitioner cannot produce the certificate required by 37 C.F.R. §1.8(b)(2), and therefore Petitioner cannot avail himself of certificate of mailing practice.
>
> Submission of a postage record cannot stand in the place of a certificate of mailing.
>
> Secondly, *assuming arguendo* that a copy of a postage record could be used to establish that a particular item was submitted to the Office on a particular date, the postage record Petitioner has supplied cannot establish that the mailing was associated with the present application. The postage record does not list the serial number associated with the mailing, but rather the Attorney

13 Original petition, paragraph (2)(d).

Docket Number, which is listed as "03-0062." However, it is noted that on the transmittal sheet which accompanied this application on filing, the attorney docket number was listed as "00-0062," and on both the declaration and the Information Disclosure Sheet, which were provided on filing, it appears as "02-0062." In the present petition, the attorney docket number is listed as "02-0062." In other words, it appears that the present application has been referred to by multiple attorney docket numbers, but it does not appear that "03-0062" appears anywhere save on this postage record. As such, it does not appear that "03-0062" refers to the present application.

With this renewed petition, the applicant has asserted that the postage record submitted with the original petition indicates that two copies of the response were mailed on April 15, 2005. The postage record bears the entry:

4/15/05	Scales	03-0062	.83+2i	RT

It is noted that Applicant has failed to address the issue with the fact that "03-0062" does not refer to his application. As such, it is determined that this postage record does not contain any information that is relevant to the present application.

Assuming arguendo that Applicant had addressed this issue, and *assuming arguendo* that this postage record does contain information which is pertinent to this application, this postage record would not constitute persuasive evidence that the abandonment was unavoidable for the following reasons.

The applicant supposes that the "+" sign is actually a "x" sign, and that this is a code which indicates that two letters were sent, each having a postage of 83 cents, and that "one letter was sent to the Patent Office and the other was sent to me[14,15]." Applicant does not mention the relevance of the "i" symbol. The applicant has indicated that he received one of these two copies, and from this receipt, he concludes that a copy of the response must have been sent to the Office. Clearly however, the receipt of one letter cannot serve as definitive proof that a copy of the same was mailed to an alternate location.

Petitioner is correct in asserting that he is entitled to reply on the mail system[16]. However, the mail system is not an infallible system, and as with anything in life, errors can be made and mistakes do occur. This is why certificate of mailing practice is in place – to protect applicants when the occasional mis-delivery or non-delivery occurs.

Petitioner has set forth that he is of the belief that "a certificate of mailing is not the only way to prove that an item was mailed" and that the postage record, coupled with his receipt of the letter which was mailed to him "should be enough[17]." Petitioner is incorrect. As indicated on the fifth page of the decision on the original petition, certificate of mailing practice provides relief to applicants in the event that correspondence is not received by the Office, and the submission of a vague postage record cannot stand in the place of a certificate of mailing.

For these reasons, Petitioner is not able to characterize the abandonment as "unavoidable."

It follows that the renewed petition must be **DISMISSED**.

---

14 Renewed petition, page 1.
15 It is noted that this is mere supposition, as the applicant was the recipient, not the sender of the letters. Furthermore, the postage record fails to indicate either where these letters were sent or what these codes represent.
16 Renewed petition, page 1.
17 Renewed petition, page 1.

Petitioner's only relief is a petition under 37 C.F.R. §1.137(b), and - having been made aware of this reality – Petitioner's delay in promptly seeking relief under 37 C.F.R. §1.137(b) may be considered evidence of intentional delay and an absolute bar to revival.

NOTICE:

Any request for reconsideration of this decision under 37 C.F.R. §1.137(a) 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. Failure to respond will result in abandonment of the application. The request for reconsideration should include a cover letter entitled "Second Renewed Petition under 37 C.F.R. §§1.137(a) *and/or (b)*," and should only address the deficiencies noted in this decision.

Thereafter, there will be no further reconsideration of this matter[18, 19].

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[20], hand-delivery[21], or facsimile[22].

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

18 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

19 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

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

21 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

22 (571) 273-8300- please note this is a central facsimile number.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Daniel W. Ernsberger
Union Bank Building, Suite 300
306 Fourth Avenue
Pittsburgh PA 15222

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Brian T. Scales	:	
Application No. 10/751,862	:	DECISION ON PETITION
Filed: January 7, 2004	:	UNDER 37 C.F.R. §1.137(B)
Attorney Docket Number: 00-0062	:	
Title: HI-LO BI-TRACK SYSTEM	:	

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on February 1, 2006. A second copy of this petition was received on February 3, 2006.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed February 4, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 5, 2005. A Notice of Abandonment was mailed September 12, 2005.

A petition under 37 C.F.R. §1.137(a) was submitted on October 5, 2005 along with the required response and the petition fee, and was dismissed via the mailing of a decision on October 25, 2005. On December 17, 2005, a renewed petition was submitted, and this petition was dismissed via the mailing of a decision on January 11, 2006.

With the present petition, Petitioner has submitted the petition fee as well as a terminal disclaimer.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

required pursuant to paragraph (d) of this section.

The terminal disclaimer will not be entered, as it is not required due to the fact that this application was not filed before June 8, 1995. See 37 C.F.R. §1.137(d).

The petition is **GRANTED**.

The Technology Center will be notified of this decision.

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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Commissioner for Patents
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SONG K. JUNG
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, N.W.
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of	:
Jeong, Ahn, Rhee, and Jeong	:
Application No. 10/751,881	: DECISION ACCORDING STATUS
Filed: 7 January, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 8733.209.20-US	:

This is in response to the petition filed under 37 CFR 1.47(a) on 8 June, 2004.

The petition is **GRANTED**.

The above-identified application was filed on 7 January, 2004, with a declaration naming Yun Cheol Jeong, Young Soo Ahn, Jang Youl Rhee, and Byong-Hyun Jeong as joint inventors and signed by all inventors except Rhee on behalf of themselves and joint inventor Rhee. Accordingly, on 8 April, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring, *inter alia*, the signature of joint inventor Rhee on the declaration.

Petitioners have shown that the non-signing inventor cannot be found. Specifically, petitioners have shown, via the declaration of Chang Yong Kim,, that a letter sent to the non-signing inventor's last known address was returned undeliverable. Additionally, despite diligent efforts to containt Rhee, the non-signing inventor could not be located.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the renewed petition, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of
Hilmar Janusson et al.
Application No. 10/751,902
Filed: January 7, 2004
Attorney Docket No.: JAHI001DIV/JEK

ON PETITION

This is a decision on the petition filed August 25, 2006 to withdraw the holding of abandonment for the above-identified application. The petition is being treated under 37 CFR 1.181.

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

The application was held abandoned on February 13, 2006, for failure to submit a timely response to the non-Final Office Action mailed November 10, 2005, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed November 3, 2006.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response and one month extension of time purportedly filed on March 10, 2006 and a post card receipt date stamped March 10, 2006.

A search of the application file and the USPTO records does not reveal receipt of the response, but the evidence submitted corroborates a timely response to the non-Final Office Action.

Accordingly, the holding of abandonment is hereby withdrawn. No petition fee is necessary and none has been charged.

This matter will be referred to Technology Center 1771 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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MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

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MAR 17 2006

Technology Center 2100

In re Application of:
I. KOBAYASHI, et al.
Application No. 10/751,934
Filed: January 07, 2004
For: A COMPUTER SYSTEM THAT ENABLES A PLURALITY OF COMPUTERS TO SHARE A STORAGE DEVICE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on 07 July 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 07 July 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ogilvy Renault LLP
1981 McGill College Avenue
Montreal, QC H3A 2Y3
Canda

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of

Alexander C. Lang
Application No. 10/751,936
Filed: January 7, 2004
Attorney Docket No. 9-14798-21US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2006.

The request is **NOT APPROVED**.

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

The 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, **unpaid fees by assignee**, do not meet any the conditions set forth in 37 CFR 10.40 because Softalk, Inc. has not properly intervened with a 3.73(b) submission.

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

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Softalk, Inc.**
46 McGill Street
Toronto, ON M5B 1H2
Canada

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ELLICOTT CITY, MD 21043

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OFFICE OF PETITIONS

In re Application of	:	
Chia-Hsaing Cheng	:	
Application No. 10/751,973	:	ON PETITION
Filed: January 7, 2004	:	
Attorney Docket No. MR1683-521	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2005, supplemented on June 27, 2005 and July 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/publication fee in a timely manner in reply to the Notice of Allowance mailed December 29, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 30, 2005.

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

This matter is being referred to Publishing Division.

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

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FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of :
Young-Chul Byun :
Application No. 10/751,979 :
Filed: 01/07/2004 :
Attorney Docket No. 4653-0110P :

DECISION ON PETITION

This is a decision on the petition filed on 31 January, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 16 January, 2005, for failure to timely response to the non-final Office action mailed on 15 October, 2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 22 April, 2005.

Receipt of the amendment filed with the present petition is acknowledged.

---

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

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

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

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

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three-month extension request filed on 31 January, 2007, was submitted more than three (3) months after the end of the period for reply to the non-final Office action mailed on 15 October, 2004, and therefore is unnecessary. The extension of time fee paid on 31 January, 2007, will be credited to counsel's deposit account as authorized.

This application is being referred to Technology Center 3751 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

UNITED STATES PATENT AND TRADEMARK OFFICE

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30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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OFFICE OF PETITIONS

In re Application of	:	
Farid Chemat, et. al.	:	
Application No. 10/751,988	:	DECISION ON PETITION
Filed: January 7, 2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 00366.000187	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 9, 2004, which is being treated as a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign European Application No. EP 03 001 183.7, filed January 21, 2003. The delay in responding is regretted.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

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

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may

require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on January 7, 2004, which is after November 29, 2000 and within 12 months of January 21, 2003 (the filing date of the foreign application to which benefit is now being claimed). On June 9, 2004, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,330 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

This application is being referred to Technology Center AU 1761, for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Andrea Smith at (571) 272-3226.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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ALEXANDRIA VA 22320

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of :
Hisaki Kurashina :
Application No. 10/752,008 : ON PETITION
Filed: January 7, 2004 :
Attorney Docket No. 118103 :

This is a decision on the petition, filed December 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 10, 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 2873 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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30 BIDEFORD ROAD, #07-01, THONGSIA BUILDING
SINGAPORE 22992-2
SINGAPORE

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MAY 12 2006

OFFICE OF PETITIONS

In re Patent No. 6,879,124	:	
Issued: 12 April, 2005	:	
Application No. 10/752,013	:	ON PETITION
Filed: 7 January, 2004	:	
Atty Docket No.	:	
1415.P001US/ADR/AY	:	

This is a decision on the petition filed on 28 November, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **dismissed**.

Petitioners have not submitted payment of the $130.00 processing fee required by 37 CFR 1.17(f). Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.[2]

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

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

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

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

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[1] See Official Gazette of 22 June, 2004.

[2] See 37 CFR 1.22(a); MPEP 509

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SUITE 1600
CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

In re Application of	:	
Bacus et al.	:	
Application No. 10/752,072	:	DECISION ON PETITION
Filed: 5 January, 2004	:	
Atty Docket No. 79711 (5407)	:	

This is a decision on the petition filed on 9 August, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 15 December, 2005, for failure to timely submit the issue and publication fee(s) in response to the Notice of Allowance Fee(s) Due mailed on 14 September, 2005, which set a three (3) month shortened statutory

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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)).

period for reply. On 19 December, 2005, the issue and publication fees were received. Notice of Abandonment was mailed on 10 July, 2006.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 25 2007

OFFICE OF PETITIONS

In re Application of
Frederick L. Bixler, Doug Coners, and Don Rochow

Application No. 10/752,074
Filed: January 5, 2004
Title: TAMPER INDICATING CLOSURE WITH FOLDABLE TAB

DECISION ON TWO PETITIONS PURSUANT TO 37 C.F.R. §§ 1.47(A) AND 1.48(A)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed May 8, 2007. This is also a decision on the concurrently filed petition under 37 C.F.R. §1.48(a)[2].

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1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $200;
(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(f);
(3) a statement of the last known address of the non-signing inventors;
(4) proof that either:
a) 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) the non-signing inventor cannot be found or reached after diligent effort, and a statement that these efforts were not successful;
(5) a declaration which complies with 37 CFR §1.63.

2 A grantable petition under 37 C.F.R. §1.48(a) requires:
(1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

The petition pursuant to Rule § 1.47(a) is **DISMISSED.**

The petition pursuant to Rule § 1.48(a) is **DISMISSED.**

On January 5, 2004, the application was filed, identifying Frederick L. Bixler, Doug Coners, and Don Rochow as joint inventors. The application was deposited without an executed declaration. On October 7, 2004, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, requiring, *inter alia*, a fully executed oath or declaration and the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

On May 12, 2005, a partially executed declaration was provided to the Office, along with the surcharge associated with the late submission of the same, and a five-month extension of time. It is noted that the submission contains a certificate of mailing dated May 9, 2005, and that May 7, 2005 fell on a Saturday.

The present petitions were not filed until two years later, on May 8, 2007.

With the present submissions, Petitioner has included a declaration that has been signed by David Krueger and Frederick Bixler, along with a request to add Mr. Krueger as a joint inventor.

<u>The petition pursuant to Rule § 1.47(a)</u>:

With this petition, Petitioner has met requirements (1) - (3) of Rule § 1.47(a).

Regarding the fourth requirement of Rule § 1.47(a), Petitioner has suggested that neither Mr. Coners or Mr. Rochow can be located, and that Petitioner has been "unable to locate a current telephone number, e-mail address and mailing address for either of them[3]."

It does not appear that Petitioner has provided any **details of the efforts to obtain this information.** Petitioner must provide a showing detailing the attempts that were made to obtain a

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(4) The processing fee set forth in § 1.17(i); and
(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

3 Helfert declaration.

forwarding address or to locate the non-signing inventor by means such as through E-mail, telephone, or the Internet. If it is then averred that such attempts failed, then applicant will have provided the necessary proof required under 37 C.F.R. § 1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Regarding the fifth requirement of Rule §1.47(a), the declaration that was submitted concurrently with the present petition cannot be accepted, as it is defective. The declaration is defective because it does not 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. Instead of "material to patentability," it improperly states "**material to the examination of this application**," which has no meaning in the context of the rule.

The petition pursuant to Rule § 1.48(a):

Petitioner has provided a request to correct the inventorship that sets forth the desired inventorship change, along with a statement from the person being added as an inventor.

However, Petitioner has **failed to comply with Rule §1.48(a)(3)**, in that the declaration that Petitioner has submitted does not appear to have been executed by Messrs. Coners and Rochow. As it does not appear that Petitioner has been able to secure their signatures on this document, Petitioner may wish to file a petition pursuant to Rule § 1.183, requesting the waiver of Rule § 1.48(a)(3).

Furthermore, as noted above, the **declaration** that was submitted with the present petition is defective.

Any renewed petition 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 Under 37 C.F.R. §§ 1.47(a) and 1.48(a), and Petition Under 37 C.F.R. § 1.183." 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]. 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 - the inclusion of any additional information 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[7]. 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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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.
6 (571) 273-8300- please note this is a central facsimile number.
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 further action(s) of Petitioner.

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OFFICE OF PETITIONS

In re Application of Frederick L. Bixler, Doug Coners, and Don Rochow Application No. 10/752,074 Filed: January 5, 2004 Title: TAMPER INDICATING CLOSURE WITH FOLDABLE TAB	:	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.183 AND TWO RENEWED PETITIONS PURSUANT TO 37 C.F.R. §§ 1.47(A) AND 1.48(A)

This is in response to the petition under 37 C.F.R. § 1.183 and the two renewed petitions under 37 C.F.R. §§ 1.47(a)[1] and 1.48(a)[2]. Each of these three petitions was filed on August 8, 2007.

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1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee as set forth in 37 C.F.R. §1.17(g);
(2) the surcharge as set forth in 37 C.F.R. §1.16(e), if the petition is not filed at the time of filing the application;
(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, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

2 A grantable petition under 37 C.F.R. §1.48(a) requires:
(1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her

Original petitions pursuant to Rules §§ 1.47(a) and 1.48 were filed on May 8, 2007. A single decision dismissed each of these petitions was mailed on June 25, 2007.

The petition pursuant to Rule § 183 is **DISMISSED.**

The renewed petition pursuant to Rule § 1.47(a) is **DISMISSED.**

The renewed petition pursuant to Rule § 1.48(a) is **DISMISSED.**

On January 5, 2004, the application was filed, identifying Frederick L. Bixler, Doug Coners, and Don Rochow as joint inventors. The application was deposited without an executed declaration. On October 7, 2004, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, requiring, *inter alia*, a fully executed oath or declaration and the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

On May 12, 2005, a partially executed declaration was provided to the Office, along with the surcharge associated with the late submission of the same, and a five-month extension of time. It is noted that the submission contains a certificate of mailing dated May 9, 2005, and that May 7, 2005 fell on a Saturday.

With the present submission, Petitioner has included an **acceptable declaration** that has been signed by David Krueger and Frederick Bixler, along with a request to add Mr. Krueger as a joint inventor.

<u>The petition pursuant to Rule § 1.183</u>:

Regarding the petition under 37 C.F.R. § 1.183, Petitioner has requested that the requirements of 37 C.F.R. § 1.48 (a)(3) be waived. Rule § 1.48 (a)(3) requires the submission of an oath or declaration by the actual inventor or inventors. As set forth on original petition pursuant to Rule § 1.47, Petitioner wishes to add David F. Krueger as an inventor. With the original petition, Petitioner supplied the required statement, and this document was

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part;
(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
(4) The processing fee set forth in § 1.17(i); and
(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

executed by each of these individuals save Messrs. Coners, and Rochow.

With this latest submission, Petitioner has asserted that Mr. Coners was located, and that a complete copy of the application was provided to him, however he has refused to execute the declaration. Petitioner has further set forth that Mr. Rochow cannot be located.

Petitioner has established that Mr. Coners has refused to execute the declaration.

As for Mr. Rochow however, Petitioner will note that **the decision on the original petition pursuant to Rule 47(a) discussed the need for a description of the search**, on pages 2-3 of the decision:

> Regarding the fourth requirement of Rule § 1.47(a), Petitioner has suggested that neither Mr. Coners or Mr. Rochow can be located, and that Petitioner has been "unable to locate a current telephone number, e-mail address and mailing address for either of them[3]."
>
> It does not appear that Petitioner has provided any **details of the efforts to obtain this information**. Petitioner must provide a showing detailing the attempts that were made to obtain a forwarding address or to locate the non-signing inventor by means such as through E-mail, telephone, or the Internet. If it is then averred that such attempts failed, then applicant will have provided the necessary proof required under 37 C.F.R. § 1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an <u>affidavit or declaration of facts</u> by a person with <u>first hand knowledge</u> of the details.
>
> Emphasis included.

With this latest submission, it appears that **Petitioner has again failed to describe the search**, provide a showing detailing the attempts that were made to locate Mr. Rochow, or provide a print-out of either the search terms or the search results.

It follows that since it cannot be determined if the search was a diligent effort to locate Mr. Rochow, the petition pursuant to Rule § 183 must be dismissed, as it has not been established that the present situation comprises an extraordinary situation such that justice requires the waiver of Rule § 1.48(a)(3).

---

3 Helfert declaration.

The renewed petition pursuant to Rule § 1.47(a):

As set forth above, Petitioner has **failed to provide details of the efforts to locate the non-signing inventor**, and as such, the petition pursuant to Rule §1.47(a) must be dismissed.

The petition pursuant to Rule § 1.48(a):

Petitioner has provided a request to correct the inventorship that sets forth the desired inventorship change, along with a statement from the person being added as an inventor. However, Petitioner has **failed to comply with Rule §1.48(a)(3)**, and pursuant to the discussion above, this requirement has not been waived.

Consequently, the petition pursuant to Rule § 1.48 must be dismissed.

CONCLUSION

Any renewed petition 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 Under 37 C.F.R. § 1.183 and Second Renewed Petition Under 37 C.F.R. §§ 1.47(a) and 1.48(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The submission 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 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.

---

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.
6 (571) 273-8300- please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[8]. 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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8 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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OFFICE OF PETITIONS

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

In re Application of	:	
Frederick L. Bixler, Doug	:	DECISION ON RENEWED PETITION
Coners, and Don Rochow	:	PURSUANT TO 37 C.F.R.
Application No. 10/752,074	:	§ 1.183 AND TWO SECOND
Filed: January 5, 2004	:	RENEWED PETITIONS PURSUANT
Title: TAMPER INDICATING	:	TO 37 C.F.R. §§ 1.47(A) AND
CLOSURE WITH FOLDABLE TAB	:	1.48(A)

This is in response to the renewed petition under 37 C.F.R. § 1.183 and the two second renewed petitions under 37 C.F.R. §§ 1.47(a)[1] and 1.48(a)[2]. Each of these three petitions was filed on October 25, 2007.

---

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee as set forth in 37 C.F.R. §1.17(g);
(2) the surcharge as set forth in 37 C.F.R. §1.16(e), if the petition is not filed at the time of filing the application;
(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, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

2 A grantable petition under 37 C.F.R. §1.48(a) requires:
(1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in

Original petitions pursuant to Rules §§ 1.47(a) and 1.48 were filed on May 8, 2007. A single decision dismissed each of these petitions was mailed on June 25, 2007.

The petition under 37 C.F.R. § 1.183 and the two renewed petitions under 37 C.F.R. §§ 1.47(a) and 1.48(a) were filed on August 8, 2007 and were dismissed via the mailing of a single decision on September 4, 2007.

This renewed petition pursuant to Rule § 183 is **GRANTED.**

This second renewed petition pursuant to Rule § 1.47(a) is **GRANTED.**

This second renewed petition pursuant to Rule § 1.48(a) is **GRANTED.**

On January 5, 2004, the application was filed, identifying Frederick L. Bixler, Doug Coners, and Don Rochow as joint inventors. The application was deposited without an executed declaration. On October 7, 2004, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, requiring, *inter alia*, a fully executed oath or declaration and the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

On May 12, 2005, a partially executed declaration was provided to the Office, along with the surcharge associated with the late submission of the same, and a five-month extension of time. It is noted that the submission contained a certificate of mailing dated May 9, 2005, and that May 7, 2005 fell on a Saturday.

With the present submission, Petitioner has included a declaration that has been signed by formerly non-signing joint inventor Rochow.

<u>The petition pursuant to Rule § 1.183</u>:

Regarding the petition under 37 C.F.R. § 1.183, Petitioner has requested that the requirements of 37 C.F.R. § 1.48 (a)(3) be

---

inventorship occurred without deceptive intention on his or her part;

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

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

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

waived. Rule § 1.48 (a)(3) requires the submission of an oath or declaration by the actual inventor or inventors. Petitioner wishes to add David F. Krueger as an inventor. Petitioner has supplied the required statement.

The declarations that Petitioner has provided have been executed by each of the joint inventors save Mr. Coners. 37 C.F.R. § 1.48(a)(3) sets forth that an "oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47."

It has been determined that justice requires that the requirement that the Petitioner provide a declaration that has been executed by joint inventor Coners be suspended. As such, the petition under 37 C.F.R. §1.183 is hereby **GRANTED**, and 37 C.F.R. §1.48(a)(3) is hereby **WAIVED**, to the extent set forth above.

The second renewed petition pursuant to Rule § 1.47(a):

Petitioner has met each of the five requirements of Rule § 1.47(a), and has submitted all required fees. Therefore, the petition is **GRANTED** and this application is hereby accorded Rule § 1.47(a) status.

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

The renewed petition pursuant to Rule § 1.48(a):

Petitioner has submitted a request to correct the inventorship that sets forth the desired inventorship change, a statement from the person being added as an inventor that the error in inventorship occurred without deceptive intention on his part, the processing fee set forth in § 1.17(i), and the written consent of the assignee. As set forth above, the requirement that each of the joint inventors execute the declaration has been waived.

Therefore, the petition under 37 C.F.R. § 1.48(a) is **GRANTED**.

A corrected filing receipt has been enclosed with this decision.

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 present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

Encl. Corrected Filing Receipt

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3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Paper No.

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NOV 14 2007

OFFICE OF PETITIONS

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

In re Application of	:	
Frederick L. Bixler, Doug	:	DECISION ON RENEWED PETITION
Coners, and Don Rochow	:	PURSUANT TO 37 C.F.R.
Application No. 10/752,074	:	§ 1.183 AND TWO SECOND
Filed: January 5, 2004	:	RENEWED PETITIONS PURSUANT
Title: TAMPER INDICATING	:	TO 37 C.F.R. §§ 1.47(A) AND
CLOSURE WITH FOLDABLE TAB	:	1.48(A)

This is in response to the renewed petition under 37 C.F.R. § 1.183 and the two second renewed petitions under 37 C.F.R. §§ 1.47(a)[1] and 1.48(a)[2]. Each of these three petitions was filed on October 25, 2007.

---

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee as set forth in 37 C.F.R. §1.17(g);
(2) the surcharge as set forth in 37 C.F.R. §1.16(e), if the petition is not filed at the time of filing the application;
(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, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

2 A grantable petition under 37 C.F.R. §1.48(a) requires:
(1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in

Original petitions pursuant to Rules §§ 1.47(a) and 1.48 were filed on May 8, 2007. A single decision dismissed each of these petitions was mailed on June 25, 2007.

The petition under 37 C.F.R. § 1.183 and the two renewed petitions under 37 C.F.R. §§ 1.47(a) and 1.48(a) were filed on August 8, 2007 and were dismissed via the mailing of a single decision on September 4, 2007.

This renewed petition pursuant to Rule § 183 is **GRANTED.**

This second renewed petition pursuant to Rule § 1.47(a) is **GRANTED.**

This second renewed petition pursuant to Rule § 1.48(a) is **GRANTED.**

On January 5, 2004, the application was filed, identifying Frederick L. Bixler, Doug Coners, and Don Rochow as joint inventors. The application was deposited without an executed declaration. On October 7, 2004, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, requiring, *inter alia*, a fully executed oath or declaration and the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

On May 12, 2005, a partially executed declaration was provided to the Office, along with the surcharge associated with the late submission of the same, and a five-month extension of time. It is noted that the submission contained a certificate of mailing dated May 9, 2005, and that May 7, 2005 fell on a Saturday.

With the present submission, Petitioner has included a declaration that has been signed by formerly non-signing joint inventor Rochow.

<u>The petition pursuant to Rule § 1.183</u>:

Regarding the petition under 37 C.F.R. § 1.183, Petitioner has requested that the requirements of 37 C.F.R. § 1.48 (a)(3) be

---

inventorship occurred without deceptive intention on his or her part;

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

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

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

waived. Rule § 1.48 (a)(3) requires the submission of an oath or declaration by the actual inventor or inventors. Petitioner wishes to add David F. Krueger as an inventor. Petitioner has supplied the required statement.

The declarations that Petitioner has provided have been executed by each of the joint inventors save Mr. Coners. 37 C.F.R. § 1.48(a)(3) sets forth that an "oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47."

It has been determined that justice requires that the requirement that the Petitioner provide a declaration that has been executed by joint inventor Coners be suspended. As such, the petition under 37 C.F.R. §1.183 is hereby **GRANTED**, and 37 C.F.R. §1.48(a)(3) is hereby **WAIVED**, to the extent set forth above.

The second renewed petition pursuant to Rule § 1.47(a):

Petitioner has met each of the five requirements of Rule § 1.47(a), and has submitted all required fees. Therefore, the petition is **GRANTED** and this application is hereby accorded Rule § 1.47(a) status.

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

The renewed petition pursuant to Rule § 1.48(a):

Petitioner has submitted a request to correct the inventorship that sets forth the desired inventorship change, a statement from the person being added as an inventor that the error in inventorship occurred without deceptive intention on his part, the processing fee set forth in § 1.17(i), and the written consent of the assignee. As set forth above, the requirement that each of the joint inventors execute the declaration has been waived.

Therefore, the petition under 37 C.F.R. § 1.48(a) is **GRANTED**.

A corrected filing receipt has been enclosed with this decision.

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 present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

Encl. Corrected Filing Receipt

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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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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JUL 12 2007

OFFICE OF PETITIONS

In re Application of
Alessandro Balboni, et. al.
Application No. 10/752,087
Filed: January 7, 2004
Attorney Docket No. BALBONI1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on May 15, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed October 23, 2006.

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

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 1722, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Zhouchen Lin	: DECISION ON REQUEST FOR
Patent Number	: 7583842	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/752,109	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1519** 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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KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS, IN 46204-2079

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DEC 28 2007

OFFICE OF PETITIONS

In re Application of Raczuk :
Application No. 10/752,110 :
Filing Date: January 6, 2004 :
Attorney Docket No. RACR-2 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed September 4, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action was mailed October 14, 2005.

A reply was filed April 19, 2006.

A second non-final Office action was mailed July 27, 2006. The Office action set a shortened statutory period for reply of three (3) months.

January 27, 2006, was a Sunday and January 28, 2006, was a federal holiday. Therefore, a reply could be timely filed as late as January 29, 2006, if filed with payment for a three-month extension of time.

A Notice of Appeal was filed February 1, 2007, along with payment for a three-month extension of time. The Certificate of Mailing Date on the transmittal letter is January 29, 2007. Therefore, the Notice of Appeal was timely filed.

Since the claims had been twice rejected, the Notice of Appeal was a proper reply to the second non-final Office action. See 37 CFR 41.31 and MPEP 1204.

Per 37 CFR 41.37(a), an Appeal Brief was due within two months of the date the Notice of Appeal was filed. However, the period for reply can be extended by up to 5 months.

A Notice of Abandonment was mailed August 8, 2007. The Notice of Abandonment states, "A notice of appeal was filed with an extension but time has run out."

The Notice of Abandonment was incorrect. Petitioner was able to file an Appeal Brief as late as September 4, 2007, with payment for a five-month extension of time.[1]

The instant petition, an Appeal Brief, a request for a five-month extension of time, and the required fees were timely filed on September 4, 2007.

Since an Appeal Brief was timely filed, the application is not abandoned. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3723 will be informed of the instant decision and the examiner will consider the Appeal Brief filed September 4, 2007, 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

[1] September 1, 2007, was a Saturday. September 2, 2007, was a Sunday. September 3, 2007, was a Federal Holiday.

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SYNNESTVEDT & LECHNER, LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA, PA 19107-2950

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OFFICE OF PETITIONS

In re Application of:	:	
William A. Hayday	:	
Application No. 10/752,111	:	DECISION ON PETITION
Filed: January 6, 2004	:	
Attorney Docket No. P22,655-D USA	:	

This is a decision on the petition under 37 CFR §1.137(b), December 2, 2005, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely remit the issue fee of $750.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed August 12, 2005. The Notice set forth a three (3) month statutory period for reply. Accordingly, this application became abandoned on November 13, 2005.

The issue fee of $750.00 and publication fee of $300.00 were received on December 2, 2005, and are accepted.

The application is being forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

12-31-07

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,043,840 B2
Inventor(s) : Vincent P. Walker Jr., et. al.
Issued : May 16, 2006
For: SHAVING RAZOR AND BLADE UNIT WITH MPROVED GUARD

Re. Request for Certificate of Correction

Consideration has been given your request under the provisions of Rule 1.322.

The alleged error in col. 4, lines 14 and 34, the changes to claims 2 and 6 are not approved. Change to claim 7 is approved. Claims 2 & 6 are the same, no reason to switch them.

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

Further correspondence concerning this matter, should be directed to:

U.S. Patent and Trademark Office
Washington, DC 20231
Attn: Decisions & Certificates of Correction Branch

A certificate of correction will issue to correct the remaining error in your request.

For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or 125

Robert c. Nabinger
Fish & Richardson
P.O. box 1022
Minneapolis, Minnesota 55440-1022

ej

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

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

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JUL 0 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Cosman, Eric R.	:	DECISION ON PETITION
Application No. 10/752,118	:	TO WITHDRAW
Filed: January 5, 2004	:	FROM RECORD
Attorney Docket No. 2541F4CP2CN2	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 10, 2006, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **NOT APPROVED.**

A review of the file record indicates that Mark Farber does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Further, 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, "[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 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 applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

for David Bucci
Petitions Examiner
Office of Petitions

cc:

ERIC R. COSMAN
872 CONCORD AVENUE
BELMONT, MA 02178

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

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

In re Application of	:	
GHOLAM A. PEYMAN	:	
Serial No.: 10/752,124	:	PETITION TO MAKE SPECIAL
Filed: 06 January 2004	:	
Attorney Docket No.: PMAN-25CP	:	

This is in response to applicant's petition filed on02 June 2005, to make the above-identified application special under the provisions 37 CFR 1,102(c), based on the age of applicant.

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

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

Should there by any questions with regard to this letter please contact Julie Burke by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 572-272-0512 or by facsimile transmission to the general Office facsimile number.

Marianne Seidel
Special Program Examiner
Technology Center 1600

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CARRIER CORPORATION
ONE CARRIER PLACE
INTELLECTUAL PROPERTY DEPARTMENT
FARMINGTON CT 06034

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OFFICE OF PETITIONS

In re Application of	:	
Alahyari et al.	:	
Application No. 10/752,134	:	ON PETITION
Filed: January 6, 2004	:	
Attorney Docket No. 1213_018	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 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 a Request for Continued Examination (RCE) and 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 processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MEDTRONIC, INC.
710 MEDTRONIC PARK
MINNEAPOLIS MN 55432-9924

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OFFICE OF PETITIONS

In re Application of	:	
Francischelli et al.	:	
Application No. 10/752,135	:	ON PETITION
Filed: January 16, 2004	:	
Attorney Docket No. P-8922.06	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 20, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on November 20, 2006, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/2/06

TO SPE OF : ART UNIT 1711

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/752132 Patent No.: 6991745 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**.

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

1711
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 05/13/2010

Applicant	: David R. Cheriton	: DECISION ON REQUEST FOR
Patent Number	: 7617290	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/752,141	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1508** 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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JANAH & ASSOCIATES, P.C.
650 DELANCEY STREET, SUITE 106
SAN FRANCISCO CA 94107

MAILED

MAR 05 2009

OFFICE OF PETITIONS

In re Application of
Robert Trujillo et al
Application No. 10/752,145
Filed: January 6, 2004
Attorney Docket No. 6980/GSEZ

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed October 8, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Data Management to be processed into a patent.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,151	01/05/2004	Hossein Amidi	034559-000005	3317

7590 08/10/2009

Robert E. Krebs
Thelen Reid & Priest LLP
P. O. Box 640640
San Jose, CA 95164-0640

EXAMINER
PATEL, KAUSHIKKUMAR M

ART UNIT	PAPER NUMBER
2186	

MAIL DATE	DELIVERY MODE
08/10/2009	PAPER

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

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

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Robert E. Krebs
Thelen Reid & Priest LLP
P. O. Box 640640
San Jose CA 95164-0640

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AUG 10 2009

TECHNOLOGY CENTER 2100

In re Application of: AMIDI et al.
Application No. 10/752,151
Filed: January 5, 2004
Atty. Docket No.: 034559-000005
For: TRANSPARENT FOUR RANK MEMORY MODULE FOR STANDARD TWO RANK SUB-SYSTEMS

DECISION ON PETITION
Under 1.136(b)

This is a decision on the petition filed on December 23, 2008, under 37 CFR 1.136(b) for extension of time to be granted for two months till February 24, 2009, to reply to Examiner's Answer.

The Petition is **DISMISSED.**

The delay in responding to Petition is regretted.

RECENT PROSECUTION HISTORY

September 28, 2007	Final Rejection mailed.
December 31, 2007	Notice of Appeal filed.
March 31, 2008	Appeal Brief filed.
July 9, 2008	Notice of defective Brief mailed.
August 8, 2008	Supplemental Appeal Brief filed.
October 24, 2008	Examiner's Answer to Appeal Brief filed.
December 23, 2008	Instant petition requesting extension of time filed.

RELIEF REQUESTED

Petitioner filed the instant petition on December 23, 2008, requesting that extension of time be granted for two months till February 24, 2009, so that Petitioners may file a reply to Examiner's Answer.

RULES AND PROCEDURE

§ 1.136 Extensions of time.

.....

(b) When a reply cannot be filed within the time period set for such reply and the provisions of paragraph (a) of this section are not available, the period for reply will be extended only for **sufficient cause** and for a reasonable time specified. **Any request for an extension of time under this paragraph must be filed on or before the day on which such reply is due, but the mere filing of such a request will not affect any extension under this paragraph. In no situation can any extension carry the date on which reply is due beyond the maximum time period set by statute.** See § 1.304 for extensions of time to appeal to the U.S. Court of Appeals for the Federal Circuit or to commence a civil action; § 1.550(c) for extensions of time in ex parte reexamination proceedings; § 1.956 for extensions of time in inter partes reexamination proceedings; and §§ 41.4(a) and 41.121(a)(3) of this title for extensions of time in contested cases before the Board of Patent Appeals and Interferences. Any request under this section must be accompanied by the petition fee set forth in § 1.17(g).

§ 1.181 Petition to 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.

MPEP 1208 [R-3] Reply Briefs and Examiner's Responses to Reply Brief<
**>37 CFR 41.41. Reply brief.
(a)
(1) Appellant may file a reply brief to an examiner 's answer within two months from the date of the examiner 's answer.
(2) A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of filing the appeal.

DECISION

A review of the prosecution history reveals that no response/reply has been filed to date to the Examiner's Answer that was mailed on October 24, 2008. Petitioner requests that the Petition for Extension of time under 1.136(b) granted to allow Petitioners to file a Reply Brief. As can be seen from 37 CFR 41.41(a) above, a reply to Examiner's answer is not required.

In accordance with 37 CFR 1.181(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.

Accordingly, in view of the above stated reason, the instant petition, filed under 37 CFR §1.136(b) requesting extension of time to file a Reply to Examiner's Answer is **DISMISSED**.

The Application is being forwarded to the Board of Patent Appeals and Interferences for Decision on the Appeal.

Nestor Ramirez, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

NRR:mp

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OFFICE OF PETITIONS

Mark D. McSwain
IBM Corporation, Intellectual Property Law
Dept. C4TA/J2B
650 Harry Road
San Jose CA 95120-6099

In re Application of	:	
Agrawal et al.	:	
Application No. 10/752,154	:	DECISION ON PETITION
Filed: January 5, 2004	:	
Attorney Docket No. ARC920030048US	:	

This is a decision on the petition under 37 CFR 1.137(a) to revive the application filed on October 22, 2007. This petition is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181

The petition under 37 CFR 1.181 is **GRANTED**.
The petition to revive under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to reply to the non final Office action mailed February 22, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 25, 2007.

Petitioner asserts that the Office action dated February 22, 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.

This application is being referred to the Technology Center technical support staff of Art Unit 2134 for processing of the amendment submitted on October 22, 2007. In light of the submission of the amendment on petition, re-mailing the Office action is not required.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 08/04/2010

Applicant	: Allan Cameron	: DECISION ON REQUEST FOR
Patent Number	: 7651459	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/752,164	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **924** 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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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19193

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OFFICE OF PETITIONS

In re Application of	:	
Jerry DROBINSKY, et al	:	
Application No. 10/752,171	:	DECISION ON PETITION
Filed: January 6, 2004	:	TO WITHDRAW
Attorney Docket No. SIM2-PT005	:	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 9, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Anthony S. Volpe on behalf of all the practitioners associated with Customer Number 3624.

All practitioners associated with Customer Number 3624 have been withdrawn.

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

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

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JERRY DROBINSKI
411 MT. PENN ROAD
READING, PA 19607

cc : SFCA, INC.
501 S. 9TH STREET
READING, PA 19602

UNITED STATES PATENT AND TRADEMARK OFFICE

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PROCOPIO CORY HARGREAVES & SAVITCH
530 B STREET, SUITE 2100
SAN DIEGO, CA 92101

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MAY 19 2006

OFFICE OF PETITIONS

In re Application of	:
Michael Roskind	:
Application No. 10/752,172	: DECISION GRANTING PETITION
Filed: January 6, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 107485-000006	:

This is a decision on the petition under 37 CFR 1.137(f), filed January 9, 2006, which is being treated 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 January 5, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 24, 2006 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This application is being referred to Technology Center Art Unit 2626.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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Tim Cook
Law Office of Tim Cook P.C.
P.O. Box 10107
Liberty, TX 77575

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OFFICE OF PETITIONS

In re Application of :
Dublin : DECISION ON PETITION
Application No. 10/752,182 :
Filed: January 6, 2004 :
Atty. Dkt. No.: INDU.3 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the final Office action mailed October 26, 2005. The final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed June 28, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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(b) 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 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 final Office action is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 2800 for processing of the RCE submitted herewith.

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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JJGJR.: 07-05

Paper No: __

JANINE D. GERAIGERY, ESQ.
56 CREIGHTON STREET
CAMBRIDGE MA 02140

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JUL 2 8 2005

OFFICE OF PETITIONS

In re Application of
Paicos :
Application No. 10/752,206 : ON PETITION
Filed: 6 January, 2004 :
Attorney Docket No. G103 :

This is a decision on the renewed petition filed on 13 May, 2005, to revive the above-identified application under 37 C.F.R. §1.137(b) as abandoned due to unintentional delay.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Notice of Allowability as to drawings mailed on 18 November, 2004, with reply due under a non-extendable due on or before 18 February, 2005;
- the application went abandoned by operation of law after midnight 18 February, 2005;
- the Office mailed a Notice of Abandonment on 5 May, 2005;
- with the instant petition with fee, Petitioner filed drawings as the reply, and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2] Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, the statement (and possibly a showing) of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has satisfied the requirements of 37 C.F.R.§1.137(b).

---

[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.

CONCLUSION

Therefore, the instant petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Publications Branch to be processed into a patent.

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

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

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BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP
900 THIRD AVENUE
NEW YORK NY 10022

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OFFICE OF PETITIONS

In re Application of :
Clifford R. Elsler :
Application No. 10/752,213 :
Filed: 6 January, 2004 :
Atty Docket No. 4774/4 CON :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 14 December, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 16 June, 2004, for failure to file a timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed on 15 April, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained.

---

[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)).

The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has now filed the required fees as well as an executed declaration.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The four-month extension request filed on 14 December, 2004, was submitted after the extendable period for reply to the Office communication mailed on 15 April, 2004, had expired, and therefore is unnecessary. The extension of time fee paid on 14 December, 2004, will be credited to counsel's deposit account, No. 50-1561 as authorized.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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OFFICE OF PETITIONS

VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO CA 95014

In re Application of :
Jones, et al. :
Application No. 10/752,219 : ON PETITION
Filed: January 6, 2004 :
Attorney Docket No. VML1P001C1

This is a decision on the petition filed October 23, 2008, under 37 CFR 1.182 to change the order of the inventors cited on this application in USPTO records.

The petition is **granted.**

The order of the inventors is now as follows:

1. Reese M. Jones
2. Jesper F. Schultz
3. Adam D. Breindel

A corrected filing receipt is enclosed.

The application file is being directed to Technology Center 2600, GAU 2614 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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/752,219	01/06/2004	2614	1376	VML1P001C1	32	2

CONFIRMATION NO. 3563

CORRECTED FILING RECEIPT

21912
VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

OC000000033120774

Date Mailed: 11/14/2008

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

Applicant(s)

Reese M. Jones, San Francisco, CA;
Jesper F. Schultz, San Francisco, CA;
Adam D. Breindel, Sausalito, CA;

Assignment For Published Patent Application

Voice Media Lab, Inc, San Francisco, CA

Power of Attorney:
Lee Van Pelt--38352
Susan Yi--39883
William James--40661

Domestic Priority data as claimed by applicant

This application is a CON of 10/211,979 08/01/2002 PAT 6,697,467

Foreign Applications

If Required, Foreign Filing License Granted: 04/08/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/752,219**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Telephone controlled entertainment

Preliminary Class

379

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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NELSON MULLINS RILEY & SCARBOROUGH, LLP
1320 MAIN STREET, 17TH FLOOR
COLUMBIA, SC 29201

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JUL 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Ling, David	:	
Application No. 10/752,236	:	ON PETITION
Filed: January 6, 2004	:	
Attorney Docket No. 17745/09040-CON	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 29, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the nonfinal Office action mailed December 22, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 23, 2005.

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

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. 11/158,417.

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

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,902,672	2005-06-07	10/752,238	2004-01-05	1495.003

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	/Pacer K. Udall/	Date (YYYY-MM-DD)	2009-10-06
Name	Pacer K. Udall	Registration Number	50976

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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In re Patent No. 6902672
Issue Date: June 7,2005
Application No. 10752238
Filed: January 5,2004
Attorney Docket No. OSMO-10A

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed October 6,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 6,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 9, 2007

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/752249 patent No.: 7,101,743

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: Approved

SPE

2823

Art Unit

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OFFICE OF PETITIONS

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

In re Application of :
William R. Rassman et al. :
Application No. 10/752,263 : DECISION ON PETITION
Filed: January 5, 2004 : UNDER 37 C.F.R. §1.137(f)
Attorney Docket No. M-15239-1P US :
Title: METHOD AND APPARATUS FOR :
TRANSPLANTING A HAIR GRAFT

This is a decision on the petition filed December 8, 2004, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on August 12, 2004. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

On January 18, 2005, a Notice of Rescission of Nonpublication Request was filed with the Office.

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

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

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

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. As set forth in the Communication Regarding Rescission of Nonpublicaiton Request and/or Notice of Foreign Filing, the projected publication date is May 5, 2005.

After this decision is mailed, the application will be forwarded to Technology Center 3700.

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

Paul Shanoski

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: Oda, et al.
Application No. 10/752,274
Filed: January 5, 2004
For: METHOD FOR CONTROLLING DATA TRANSFER UNIT, DATA TRANSFER UNIT, CHANNEL CONTROL UNIT, AND STORAGE DEVICE CONTROL UNIT

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

This is a response to the petition filed 31 January 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

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

The petition filed 31 January 2005 fails to adequately meet requirement (e) of the criteria set forth above. There is no detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). Rather, the identical statement, that none of the references describe or suggest essentially the entirety of independent claim 17, is presented for each of the six references deemed "most closely related". Petitioner should ensure that the above discussion is directed to how the language of **each** of the independent claims is **specifically** distinguishable and patentable from **each** of the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

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

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

Pinchus M. Laufer

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

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GODFREY & KAHN S.C.
780 NORTH WATER STREET
MILWAUKEE, MI 53202

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In re Application of	:	
Luc Mainville	:	
Application No. 10/752,345	:	DECISION ON PETITION
Filed: January 6, 2004	:	TO WITHDRAW
Attorney Docket No. 055189-0011	:	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 20, 2005.

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

The Associate Power of Attorney filed on June 26, 2004, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b)). The paper has been placed in the official file; however, the name of the patent practitioner listed on the Associate Power of Attorney has **not** been made of record. 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 above-listed address until otherwise notified by applicant.

This application is being referred to Technology Center AU 3635 to await a reply to the final Office mailed January 13, 2006.

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

Denise Pothier
Petitions Examiner
Office of Petitions

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

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JAN 1 1 2005

OFFICE OF PETITIONS

NOTICE

In re Application of :
Jiang :
Application No. 10/752,346 :
Filed: January 6, 2004 :
Attorney Docket No. 30770/39817 :

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HONEYWELL INTERNATIONAL INC.
LAW DEPARTMENT
AB2
POST OFFICE BOX 2245
MORRISTOWN NJ 07962-2245

COPY MAILED
OCT 1 3 2004
OFFICE OF PETITIONS

In re Application of :
Robert J. Saccomanno :
Application No. 10/752,397 :
Filed: January 6, 2004 :
Attorney Docket No. H4353000-US :

ON PETITION

This is in response to the petition under 37 CFR 1.53, filed June 23, 2004, in response to the Notice of Incomplete Application mailed June 3, 2004, and requesting a filing date of January 6, 2004.

The petition under 37 CFR 1.53 is **GRANTED.**

The instant application was deposited with the USPTO on January 6, 2004. On June 3, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Application" indicating that the application was deposited without drawings and which set a two (2) month shortened statutory period for reply.

In response, on June 23, 2004, the present petition was filed, accompanied by, *inter alia*, three (3) sheets of drawings. Because the return postcard receipt date-stamped January 6, 2004 properly itemizes the contents of the application package in accordance with MPEP § 503, the Office concludes that three (3) sheets of drawings were filed on January 6, 2004 with the application papers but the drawings were misplaced in the office. The office apologizes for any inconvenience occasioned by the loss of the drawings.

In view of the foregoing, the **petition to accord a filing date of January 6, 2004** will be accorded this application. The petition fee in the amount of $130.00 will be credited to petitioner's deposit account no. 01-1125 as no fee is due.

This file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of January 6, 2004 using the three (3) sheets of drawings supplied June 23, 2004.
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
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HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

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SEP 28 2007
OFFICE OF PETITIONS

In re Application of Daniel E.H. Afar et al Application No. 10/752,421 Filed: January 5, 2004 Attorney Docket No. 511582001612	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed September 27, 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 September 20, 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 1642 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

Commissioner for Patents
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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JUL 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Daniel E. AFAR	:	
Application No. 10/752,421	:	DECISION ON PETITION
Filed: January 5, 2004	:	TO WITHDRAW
Attorney Docket No. 511582001612	:	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 3, 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 John W. Branch on behalf of all the attorney/agents of record associated with Customer No. 25213.

All attorneys/agents of record associated with Customer No. 25213 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 signing inventor at the first copied address below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DANIEL E. AFAR
17250 SUNSET BOULEVARD
PACIFIC PALISADES, CA 90272

cc: GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

MAILED

JUN 18 2009

OFFICE OF PETITIONS

In re Patent No. 7,455,991	
Afar et al.	
Issue Date: November 25, 2008	
Application No. 10/752,421	DECISION ON REQUEST FOR
Filed: January 5, 2004	RECONSIDERATION OF
Attorney Docket No. GNE-0163 D1	PATENT TERM ADJUSTMENT
Title: Novel Serpentine	
Transmembrane Antigenes	
Expressed in Human Cancers and	
Uses Thereof	

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 CFR §1.705(b)" filed January 21, 2009. This petition will be treated under 37 CFR 1.705(d).

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

On November 25, 2008, the above-identified application matured into US Patent No. 7,455,991 with a patent term adjustment of 570 days. This request for reconsideration of patent term adjustment (including authorization to charge 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 that pursuant to Wyeth, a PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 265 days, do not overlap with the 570 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.

Thus, patentees request that the determination of patent term adjustment be increased by 265 days to a total of eight hundred thirty-five (835) days.

The 265 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on January 5, 2004, and a request for continued examination (RCE) having been filed on September 27, 2007. The filing of a RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1)

Accordingly, the period of adjustment under § 1.702(b) is 265 days, counting the number of days beginning on January 5, 2007 and ending on September 27, 2007.

The 585 day period is for failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1). A non-final Office action was mailed on October 11, 2006, which is 14 months and 585 days after the application was filed on January 5, 2004.

Under 37 CFR § 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 15 days for applicant delay is not in dispute.

Patentees agree that the total period of Office delay is the sum of the period of Three Years Delay terminated by the filing of a RCE (265 days) and the period of Examination Delay (585 days) to the extent that these periods of delay are not overlapping.

Accordingly, patentees submit that the total period of Office Delay is 850 days, which is the sum of the period of Three Year Delay (265 days) and the period of Examination Delay (585 days).

As such, patentees assert entitlement to a patent term adjustment of 835 days (265 + 585 -15 for applicant delay).

The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 585 days is correct. At issue is whether patentees should accrue 265 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 585 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that 265 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

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

> overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and

Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, January 5, 2004 to September 27, 2007. 585 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the 585 days of Office delay and the 15 days of applicant delay and the permissible timeframes for taking action, as of the filing of the request for continued examination, this application was pending 3 years and 265 days. In other words, the 585 days of delay contributed to the over three year pendency. The issuance

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

of the patent was delayed by 585 days, not 585 + 265 days. The Office did not delay 585 days and then an additional 265 days. Entry of both periods is not warranted. 570 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 570 days for over three year pendency. Accordingly, the Office properly determined that the 265 days for Office delay in issuing the patent overlapped with the 570 days. Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 570 days (585 - 15).

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 50-4634. The petition fee must accompany any request for reconsideration of a patent term adjustment. Accordingly, the petition fee will not be refunded. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Kery Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

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DEC 2 8 2004

OFFICE OF PETITIONS

In re Application of	:
Bolduc et al.	:
Application No. 10/752,435	: DECISION GRANTING PETITION
Filed: January 6, 2004	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 9494.18510	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on January 6, 2004 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Paralegal Liana Chase at (703) 306-0482.

This application is being forwarded to Technology Center Art Unit 3738 for appropriate action on the amendment submitted November 15, 2004, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Frances Hicks

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

ATTACHMENT : Corrected Filing Receipt

OIPE JC99
MAY 2 3 2005
PATENT & TRADEMARK OFFICE

PETITION TO MAKE SPECIAL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: James C. Morriston

Serial No: 10/752,459

Filing Date: 01/06/2004

Title: REVERSIBLE SLIP-RESISTANT TRUNK LINER

Examiner: Cheryl Ann Juska

Group/Art: 1771

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

Dear Sir or Madam:

I hereby petition the Commissioner for Patents pursuant to 37 CFR 1.102 to provide the above referenced application with "Special" status thereby advancing the application for examination. The fee set forth in §1.17h is enclosed herewith. The reason for the petition is set forth below.

A. There is an infringing product actually on the market. The product is a reversible slip-resistant trunk liner that is the invention claimed in the above referenced pending application. Texas Encore Materials, Inc. is the assignee ("Assignee") of the application and the manufacturer of the "slip-resistant layer" of the claimed invention. The reversible slip-resistant trunk liner is currently being sold as a component of the 2005 Ford Taurus. The reversible design and specification that make up the claimed invention were provided to Carcoustics International ("Carcoustics") for the purposes of having Carcoustics manufacture the product for

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FC:1464 130.00 OP

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700
JUN 13 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BRINKS HOFER GILSON & LIONE/PML
PO BOX 10395
CHICAGO, IL 60610

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
Douglas S. Ransom, et al. :
Application No. 10/752,467 :
Filed: January 5, 2004 :
Attorney Docket No.: 6270/105 :

ON PETITION

This is a decision on the petition, filed September 22, 2006[1], under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 8, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [2]

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 2125 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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[1] A copy of the petition was provided by facsimile transmission on September 26, 2006.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 3/10/10

TO SPE OF : ART UNIT 2871

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/267839 Patent No.: 7630039 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

SPE 2871

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

MAILED

MAY 26 2005

Director's Office
Group 3700

In re application of Toshimasa Koga	:	**NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313**
Serial Number: 10/752,518 Filed: January 08, 2004	:	

For: **REGENERATION APPARATUS AND METHOD FOR PARTICULATE FILTER APPLICABLE TO ENGINE EXHAUST GAS PURIFYING DEVICE**

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

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

Telephone inquiries should be directed to Tom Denion at (571) 272-4859.

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

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

rt/ 5/26/05

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MAY 1 8 2005

OFFICE OF PETITIONS

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

In re Application of :
Hongyong Zhang et al :
Application No. 10/752,526 :
Filed: January 8, 2004 :
Attorney Docket No. 07977-159005 :

ON PETITION

This is a decision on the petition, filed May 16, 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 18, 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 2871 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

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

In re Application of	:	
Hongyong Zhang et al	:	
Application No. 10/752,526	:	ON PETITION
Filed: January 8, 2004	:	
Attorney Docket No. 07977-159005	:	

This is a decision on the petition, filed August 29, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 13, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2871 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : August 29, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Hongyong Zhang et al
Application No. :10/752,526
Filed :January 8, 2004

The above-identified application has been assigned Patent No. 7,102,720 and an issue date of September 5, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 5, 2006:

"All reference to Patent No. 7,102,720 to Hongyong Zhang et al of Japan for ELECTRONIC DEVICE HAVING LIQUID CRYSTAL DISPLAY DEVICE appearing in the Official Gazette of September 5, 2006 should be deleted since no patent was granted."

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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RABIN & BERDO, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of

Po-Cheng Chen

Application No. 10/752,558

Filed: January 8, 2004

Attorney Docket No. LON 116

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed March 10, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on November 2, 2005, after it was believed that no response was received to the non-final Office action mailed August 1, 2005. The non-final Office action allowed a shortened statutory period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on March 6, 2006, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that an amendment responsive to the non-final Office action was timely mailed and received by the Office. A review of the application file revealed that an amendment responsive to the non-final Office action filed on October 26, 2005, and matched with the subject application. It appears that the application was improperly held abandoned as a response to the non-final Office action was filed prior to expiration of the shortened statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 3700, GAU 3727, for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Patent No. 7,119,027 :

Issue Date: October 10, 2006 :

Application No. 10/752,571 : ON PETITION

Filed: January 8, 2004 :

Attorney Docket No. 566.43403X00

This is a decision on the petition filed March 8, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 8/20/08

TO SPE OF : ART UNIT (2859) – Sent to 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/752582 Patent No.: 6918696 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Hezron E. Williams — SPE

2856 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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May 24, 2010

Patent No. : 6,918,696 B2
Appl. No. : 10/752,587
Inventor(s) : Akihiko Hoshisashi, et al.
Issued : July 19, 2005
Title : **TEMPERATURE SENSOR AND METHOD FOR MANUFACTURING THE SAME**
Docket No. : **01-500**

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 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 petition 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.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

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

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POSZ LAW GROUP, PLC

ATTORNEYS AT LAW

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RESTON, VA 20191

TEL: (703) 707-9110
FAX: (703) 707-9112, (703) 476-4744

WWW.POSZLAW.COM

SPECIALIZING IN PATENTS, TRADEMARKS & COPYRIGHTS

DAVID G. POSZ
JAMES E. BARLOW *
BRIAN C. ALTMILLER
CYNTHIA K. NICHOLSON
THERESE B. VARNDELL*
JAMES M. ALPERT*
KIYOSHI KOZU*

* ADMITTED IN JURISDICTION OTHER THAN VIRGINIA PRACTICE LIMITED TO FEDERAL PATENT, TRADEMARK AND COPYRIGHT MATTERS

OF COUNSEL
R. EUGENE VARNDELL, JR.*

DEBRA G. SHOEMAKER, PH.D.**
TETSU YOSHIDA +

** PATENT AGENT
+ JAPANESE PATENT ATTORNEY ADMITTED ONLY IN JAPAN

FACSIMILE TRANSMISSION

Date: June 10, 2010 **Pages:** 10 (including cover sheet)

To: United States Patent and Trademark Office
Attention: Office of Petitions
Fax: (571) 273-8300

From: Yoko Fujioka
Posz Law Group, PLC
(703) 707 – 9110
hcallahan@poszlaw.com

RE: **PETITION TO CORRECT THE ASSIGNEES UNDER 37 CFR 3.81(b) AND REQUEST FOR CERTIFICATE OF CORRECTION**

Comments: In response to the Office Communication of May 24, 2010, enclosed please find a Petition to Correct the Assignees under 37 CFR 3.81(b) and Request for Certificate of Correction.

Please contact us if you have any questions or concerns.

Applicant(s): HOSHISASHI et al.	Atty. Dkt.: 01-500
Serial No.: 10/752,587	Group Art Unit: 2859
Filed: January 8, 2004	Examiner: Pruchnic, Stanley J.
Title: TEMPERATURE SENSOR AND METHOD FOR MANUFACTURING THE SAME	Patent No.: 6,918,696

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Office of Petitions, Fax No.: (571) 273-8300 on June 10, 2010.
Typed Name: Yoko Fujioka
Signature: _____

****Notice****

The information contained in this facsimile transmission is intended only for the above-indicated addressee, and may contain privileged and confidential attorney work product or trade secret information. Any dissemination, distribution or copying of any part of this transmission is strictly prohibited. If you have received this transmission in error, please immediately notify the sender, and return the transmission to the sender at the above-indicated address.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): HOSHISASHI et al.	Atty. Dkt.: 01-500
Serial No.: 10/752,587	Group Art Unit: 2859
Filed: January 8, 2004	Examiner: PRUCHIC, Stanley J.
Title: TEMPERATURE SENSOR AND METHOD FOR MANUFACTURING THE SAME	**Patent No.: 6,918,696** **Issued: July 19, 2005**

Commissioner for Patents
Alexandria, VA 22313-1450
Mail Stop PETITIONS

Date: June 10, 2010

PETITION TO CORRECT THE ASSIGNEES UNDER 37 CFR 3.81(b) AND REQUEST FOR CERTIFICATE OF CORRECTION

Sir:

In response to the Office Communication from the Decisions & Certificates of Correction Branch of May 24, 2010 (a copy enclosed as Appendix A) in connection with the above-identified patent, Applicants hereby submit a Petition to Correct the Assignee under 37 C.F.R. 3.81(b).

Applicants state that the executed Assignment of partial rights from original assignee DENSO CORPORATION to SHIBAURA ELECTRONICS CO., LTD. was filed and recorded on March 1, 2007, after the Issue Fee was paid along with the Issue Fee Transmittal Form PTOL-85B on June 9, 2005.

Accordingly, the correct data for the Assignees is as follows:

Name of Assignees	Residence: (City and Country)
DENSO CORPORATION	Kariya, Japan
SHIBAURA ELECTRONICS CO., LTD.	Saitama-city, Japan

Enclosed please find a copy of the Notice of Recordation of Assignment (enclosed as Appendix B) that was recorded on March 13, 2007 from the Assignment Branch (Reel/Frame: 019047/0429) and that indicates the correct Assignee as noted above.

06/11/2010 JVONG1 00000031 10752587
01 FC:1464 130.00 OP

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Serial No. 10/752,587
U.S. Patent No. 6,918,696

Atty. Dkt. No. 01-500

A payment of $130 for the requisite petition fee under 37 C.F.R. 1.117(h) is enclosed herewith. Authorization is hereby given to charge any fee deficiencies or credit any overpayment to Deposit Account 50-1147.

In view of the above and the attached, Applicants respectfully request that the present Petition be granted, and that the file be forwarded to Certificate of Correction Branch for issuance of a Certificate of Correction. Applicants hereby enclose a Certificate of Correction reflecting the correct data of the Assignees. Specifically, Applicants request that item (73) be corrected to list DENSO CORPORATION and SHIBAURA ELECTRONICS CO., LTD. as named assignees.

Applicants also request that the attached Certificate of Correction be attached to all copies of the Letters Patent.

Although it is believed there are no fees due at this time, authorization is hereby given to charge any unforeseen fees to Deposit Account 50-1147.

Respectfully submitted,

David G. Posz
Reg. No. 37,701

Posz Law Group, PLC
12040 South Lakes Drive, Suite 101
Reston, VA 20191
(703)707-9110 (phone)
Customer No. 23400

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 6,918,696
APPLICATION NO.: 10/752,587
ISSUE DATE: July 19, 2005
INVENTOR(S): Akihiko HOSHISASHI et al.

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

Title Page

Please correct the named assignees in item (73) of the above-identified Letters Patent to reflect the changes below:

(73) Assignees: DENSO CORPORATION, Kariya, (JP)
SHIBAURA ELECTRONICS CO., LTD., Saitama-city, (JP)

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Posz Law Group, PLC
12040 South Lakes Drive
Suite 101
Reston, VA 20191
(703) 707-9110 (phone)

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain and 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 needs of the individual case. Any comments on the amount of time you are 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 28 2010
POSZ LAW GROUP, PLC

May 24, 2010

Patent No. : 6,918,696 B2
Appl. No. : 10/752,587
Inventor(s) : Akihiko Hoshisashi, et al.
Issued : July 19, 2005
Title : **TEMPERATURE SENSOR AND METHOD FOR MANUFACTURING THE SAME**
Docket No. : **01-500**

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 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 petition 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

APPENDIX A

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.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

POSZ LAW GROUP, PLC
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RESTON VA 20191

APPENDIX A

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

MARCH 22, 2007

PTAS *103384237A*

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MAR 27 2007
POSZ LAW GROUP, PLC

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

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 03/13/2007 REEL/FRAME: 019047/0429
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: 01-500

ASSIGNOR:
DENSO CORPORATION DOC DATE: 03/08/2007

ASSIGNEE:
SHIBAURA ELECTRONICS CO. LTD.
2-7-18, MACHIYA, SAKURA-KU,
SAITAMA-CITY
SAITAMA-PREF. 338-0836, JAPAN

SERIAL NUMBER: 10752587 FILING DATE: 01/08/2004
PATENT NUMBER: 6918696 ISSUE DATE: 07/19/2005
TITLE: TEMPERATURE SENSOR AND METHOD FOR MANUFACTURING THE SAME

APPENDIX B

PAGE 8/10 * RCVD AT 6/10/2010 7:27:26 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/33 * DNIS:2738300 * CSID:703 476 4744 * DURATION (mm-ss):01-56

019047/0429 PAGE 2

TARA WASHINGTON, EXAMINER
ASSIGNMENT SERVICES BRANCH
PUBLIC RECORDS DIVISION

APPENDIX B

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Form PTO-1595
(Rev. 03/01)
OMB No. 0651-0027 (exp. 5/31/2002)

03-16-2007

103384237

ET

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

Attorney Docket No. 01-500

To the honorable Commissioner of Patents and Trademarks: ... attached original documents or copy thereof.

3.13.07

1. Name of conveying party(ies):

DENSO CORPORATION

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

2. Name and address of receiving party(ies)

Name: ~~SHIBAURA ELECTRONICS CO., LTD.~~
Street Address: 2-7-18, Machiya,
Sakura-ku, Saitama-city
Saitama-pref.
338-0836 JAPAN

OIPE
MAR 1 8 2007
PATENT & TRADEMARK OFFICE

3. Nature of conveyance:

☒ Assignment ☐ Merger

☐ Security Agreement ☐ Change of Name

☐ Other _____

Execution Date(s): (1) March 8, 2007

Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s): Patent No.: 6,918,696 Month Day Year

If this document is being filed together with a new application, the execution date of the application is :

A. Patent Application No.(s)

B. Patent No.(s) 6,918,696

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: David G. Posz

Internal Address: _____

Street Address: Posz Law Group, PLC
12040 South Lakes Drive, Suite 101

City: Reston State: VA Zip: 20191

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41). . . . . $ 40

☒ Enclosed

☒ Authorized to be charged to deposit account

8. Deposit account number:
50-1147

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

David G. Posz (Reg. No. 37,701) — Name of Person Signing
Signature
March 13, 2007 — Date

Total number of pages including cover sheet, attachments, and documents: 2

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patents & Trademarks, Box Assignments
Alexandria, VA 22313-1450

03/15/2007 DBYRNE 00000116 6918696
01 FC:8021 (40.00 OP)

APPENDIX B

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 13 2005

In re Application of	:	
Gordon P. Loeffler et al.	:	
Serial No. 10/752,598	:	DECISION ON PETITION
Filed: January 8, 2004	:	TO MAKE SPECIAL
For: WIRE COMB	:	

Applicant's petition, filed December 30, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

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

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Frederick R. Schmidt

Frederick R. Schmidt, Director
Technology Center 3700

Ronald Kimble
Sughrue, Mion, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 10037-3213

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

MARVELL SEMICONDUCTOR, INC.
INTELLECTUAL PROPERTY DEPARTMENT
700 FIRST AVENUE, MS# 509
SUNNYVALE CA 94089

COPY MAILED

AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Pantas Sutardja et al. :
Application No. 10/752,601 : ON PETITION
Filed: January 6, 2004 :
Attorney Docket No.: MP0368 :

This is a decision on the paper filed May 19, 2004, and styled "Response to Notice to File Corrected Application Papers", which is treated as a petition under 37 CFR 1.182, to accord the above-identified application a filing date of January 6, 2004, with Figures 2B and 6 described in the specification, as a part of the original disclosure.

The petition is **DISMISSED**.

The application was filed on January 6, 2004. However, on April 14, 2004, the Office mailed a "Notice to File Corrected Application Papers" which indicated *inter alia*, that the application had been accorded a filing date of January 6, 2004, but that Figures 2B and 6 described in the specification appeared to have been omitted.

In response, the present petition was filed on May 19, 2004. Petitioners have submitted with the petition a copy of four (4) new sheets of drawings which include Figures 2B and 6, previously noted as having been omitted. Petitioners neither concede that Figures 2B and 6 were inadvertently omitted, nor assert that the drawings were included with the original filing, instead, the petition indicates that Figures 2B and 6 do not contain any new matter. Petitioners request that the application be accorded a filing date with Figures 2B and 6 described in the specification, as a part of the original disclosure.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings 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 drawings in a nonprovisional application and accept the date of such submission as the

application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(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 of Omitted Items" (37 CFR 1.181(f)).

If petitioners wish to assert that Figures 2B and 6 do not add any new matter to the application, petitioners should file a preliminary amendment adding Figures 2B and 6. Amendments to the specification may be entered by the primary examiner without petition so long as the amendment contains no new matter.[1] If petitioners file Figures 2B and 6 as a preliminary amendment, the amendment will be reviewed for new matter by the examiner. If Figures 2B and 6 are subsequently determined to contain new matter, petitioners may petition under 37 CFR 1.182 that the application be accorded a filing date of January 6, 2004, with Figures 2B and 6, as a part of the original disclosure.

Accordingly, the petition is inappropriate and is subject to dismissal. As the petition was not due to an error on the part of the USPTO, the petition fee will not be refunded.

The application will be processed and examined using only the application papers filed on January 6, 2004. The four (4) sheets of drawings which included Figures 2B and 6 supplied on May 19, 2004, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 6, 2004 using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497. Please be advised that the telephone number for the Office of Petitions will be changed to (571) 272-3282 effective September 28, 2004.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] 37 CFR 1.121(b).

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AUG 10 2007

OFFICE OF PETITIONS

MICHAEL J. BUCHENHORNER
8540 S.W. 83 STREET
MIAMI, FL 33143

In re Application of
Mukund Raghavachari
Application No. 10/752,624
Filed: January 7, 2004
Attorney Docket No. YOR920030201US1

ON PETITION

This is a decision in response to the petition, filed February 22, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed July 26, 2006. A Notice of Abandonment was mailed on February 2, 2007. In response, on February 22, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2163 for consideration of the amendment filed February 22, 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

DATE 8/27/07 APPLICATION NUMBER 10/752625

DOC CODE PET. DEC. PUBS DOC DATE 8/28/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

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

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ALEXANDRIA, VA 22313-1450
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AUG 28 2007

OFFICE OF PETITIONS

ROBERT C. MONTGOMERY
PATENT AGENT
6 SOUTH MAIN STREET
202 WASHINGTON TRUST BUILDING
WASHINGTON, PA 15301

In re Application of
Edwin K. Shinault
Application No. 10/752,625
Filed: January 8, 2004
Attorney Docket No. RCM-042307SAI-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed April 23, 2007.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fees on or before April 24, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed January 23, 2006. A Notice of Abandonment was mailed on June 8, 2006. On April 23, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that the petitioner has supplied (1) reply in the form of payment of the issue fee of $700; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record at the time of abandonment, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: Yu-Cheng Hsu	: DECISION ON REQUEST FOR
Patent Number	: 7584271	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/752,632	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1348** 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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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

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AUG 15 2008

In re Application of	:	
Richard C. Fuksa, et al.	:	
Application No. 10/752,651	:	DECISION ON PETITION
Filed: January 7, 2004	:	TO WITHDRAW
Attorney Docket No. 926512-101092	:	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 18, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request "file responsibility was transferred to the attorneys associated with customer number 24628", does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: HUSCH BLACKWELL SANDERS, LLP
WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 1 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Wen-Jian Lin et al	:	
Application No. 10/752,666	:	ON PETITION
Filed: January 8, 2004	:	
Attorney Docket No. QCO.083A	:	

This is a decision on the petition, filed April 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 7, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2813 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : April 18, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

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APR 18 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Wen-Jian Lin et al
Application No. :10/752,666
Filed :January 8, 2004

The above-identified application has been assigned Patent No. 7,037,740 and an issue date of May 2, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 2, 2006:

> "All reference to Patent No. 7,037,740 to Wen-Jian Lin et al of Taiwan for OPTICAL-INTERFERENCE TYPE DISPLAY PANEL AND METHOD FOR MAKING THE SAME appearing in the Official Gazette of May 2, 2006 should be deleted since no patent was granted."

Karen Creasy

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/23/09

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 10752732 Patent No.: 7467144 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Formatted: Indent: Left: 1.22"

Comments: The requested changes/corrections have been approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Pierre M Vital/ 2169

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/23/09

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 10752732 Patent No.: 7467144 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.

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

Comments: The requested changes/corrections have been approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Pierre M Vital/ 2169

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

10752733

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

Patent No. : 7,496,555
Inventor(s) :Margolus
Issued : February 24, 2009
Title : History Preservation In A Computer Storage System

Docket No. : 11656-004009

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
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.

RoChaun Johnson

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580or (571) 272-0470

FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110
[RMJ]

UNITED STATES PATENT AND TRADEMARK OFFICE

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Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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JAN 15 2009

In re Application of	:	
Allen DorEl	:	DECISION REFUSING STATUS
Application No. 10/752,737	:	UNDER 37 CFR 1.47(a)
Filed: January 6, 2004	:	
Attorney Docket No. 023243.0003US1	:	

This is in response to the petition under 37 CFR 1.47(a), filed November 10, 2008, which is being treated under 37 CFR 1.181(a)(3) to accept an assignment that is not signed.

The petition is **dismissed**.

37 CFR 1.47 relates to the filing of an application when an inventor refuses to sign or cannot be reached. However, the above referenced application was filed with a properly signed declaration, and the filing status of the application is not disturbed by an unsigned assignment document. Accordingly, 37 CFR 1.47 does not apply in this instance and this application will not be prosecuted with 37 CFR 1.47 status.

As discussed in MPEP 301.01 V, the recording of an assignment by the USPTO is merely a ministerial act. Such recording is not an Office determination of the validity of the assignment document or the effect of the assignment document on the ownership of the patent property. See 37 CFR 3.54 and MPEP 317.03. Assignment documents submitted for recordation will be processed in accordance with the regulations governing the recordation of assignments in the USPTO and such processing will not determine the ownership of any patent property associated with the above referenced application.

In regard to the prosecution of the above referenced application, although an assignee is not required to act in the application, a proper showing of the chain of title must be established in accordance with 37 CFR 3.73 for an assignee to establish the right to take action in the application. See MPEP 324. The Declaration of Hani Z. Sayed suggests that a Professional Services Agreement (Agreement) executed by Mr. Allen DorEl exists in which Mr. DorEl agrees to assign his interests in the above referenced application to Digital Interactive Systems Corporation, Inc. This Agreement was not presented with the instant petition but may provide the evidence necessary to establish the chain of title. The use of form PTO/SB/96 may be helpful

in making the proper statement required by 37 CFR 3.73 in the event that Digital Interactive Systems Corporation, Inc. desires to take action in the above referenced application.

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

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

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

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

Telephone inquiries regarding this decision should be directed to Christopher Bottorff at (571) 272-6692. Inquiries regarding the recordation of assignments should be directed to the assignment branch at 800-972-6382 or 571-272-3150.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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HICKMAN PALERMO TRUONG & BECKER LLP/Yahoo! Inc.
2055 Gateway Place
Suite 550
San Jose, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Amr Awadallah	: DECISION ON REQUEST FOR
Patent Number	: 7617203	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/752,742	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **527** 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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GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA, CA 90404

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MAR 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Nicholas Bennett :
Application No. 10/752,773 : ON PETITION
Filed: January 6, 2004 :
Attorney Docket No. 58157-013300 :

This is a decision on the petition under 37 CFR 1.53 filed March 3, 2005, requesting that the above-identified application be accorded a filing date of January 6, 2004, including four (4) sheets of drawings.

The application was submitted on January 6, 2004. However, on January 26, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

In response, on March 3, 2005, the instant petition was submitted. Petitioner argues that four (4) sheets of drawings were filed on January 6, 2004. In support, the instant petition is accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "4 pgs. Drawings" on January 6, 2004. A review of the application file indicates the presence of zero (0) sheets of drawings filed on January 6, 2004. It is assumed that missing sheets of drawings were misplaced by the Office.

In view of the above, the petition is granted.

The $400.00 petition fee will be refunded to deposit account no. 50-2638.

This application will be returned to OIPE for further processing with a filing date of January 6, 2004, using the four (4) sheets of drawings, supplied on March 3, 2005.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
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
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Norman H. Margolus	: DECISION ON REQUEST FOR
Patent Number	: 7657931	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/752,774	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1088** 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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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Norman H. Margolus	: DECISION ON REQUEST FOR
Patent Number	: 7587617	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/752,775	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1134** 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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Simpson & Simpson, PLLC
5555 Main Street
Williamsville, NY 14221

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NOV 0 1 2006

OFFICE OF PETITIONS

In re Application of	
BANKS	
Application No. 10/752,776	DECISION ON PETITION
Filed: January 07, 2004	TO WITHDRAW
Attorney Docket No. BANP:101US	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 24, 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 Thad G. McMurray on behalf of all attorneys of record who are associated with customer No. 24041. All attorneys/agents associated with the Customer Number 24041 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 Robert J. Banks at the address indicated below until otherwise properly notified by the applicant.

A Review of the file discloses that a non-final Office action was mailed on May 17, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of May 17, 2006 has been received.

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

PAVolpe for

David Bucci
Petitions Examiner
Office of Petitions

cc: Robert J. Banks
Buffalo Pool & Spa Repair
41 CoralWood Court
Buffalo, NY 14215

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MAY 23 2005

GENE SCOTT
Patent Law & Venture Group
3140 Red Hill Avenue
Suite 150
Costa, Mesa, CA 92626-3440

In re application of
Alan Gillengerten
Application No. 10/752,780 : DECISION ON REQUEST
Filed: January 07, 2004 : FOR WITHDRAWAL OF
For: AUDIO VISUAL SYSTEM : ATTORNEY

This is a decision on the request filed on April 29, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in this application is not approved as moot because a revocation of power of attorney to The Law Office of Harry J. Macey and a new power of attorney to the attorneys of Gene Scott; Patent Law & Venture Group was submitted to the United States Patent and Trademark Office on May 01, 2005. The power of attorney therefore has already been withdrawn as per the Notice to that effect mailed May 12, 2005.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 05/16/05

CC: Law Office of Harry J. Macey
720 Blair Island Road, Suite 100
Redwood City, CA 94063

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www.uspto.gov

ALLAN L HARMS
2750 FIRST AVENUE NE, SUITE 420
CEDAR RAPIDS IA 52402

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JUN 14 2005

OFFICE OF PETITIONS

Applicant: Nesselroad
Appl. No.: 10/752,788
Filing Date: January 7, 2004
Title: COMBINATION THERAPY FOR ANTICOAGULATION
Pub. No.: US 2004/0167207 A1
Pub. Date: August 26, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 13, 2004, for the above-identified application.

The request is granted-in-part.

The instant request is that the patent application publication, which published on August 26, 2004, be republished because the publication includes a material errors in that it did not include a limitation in claim 20 and it did not include the preliminary amendment to the specification.

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

The patent application publication does not include a mistake in the publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a)[2], which says the following, in part:

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the

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

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

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

§ 1.215(c) says the following:

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

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office has recently changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until this past year, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004). The applicant did not supply a copy of the application in compliance with § 1.215(c). The Office correctly published the application in accordance with § 1.215(a).

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes. The corrected patent application publication will not include the preliminary amendments to the specification.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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PETER WANG
103 ALMOND COURT
SAN RAFAEL, CA 94903

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OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	
Application No. 10/752794	:	DECISION
Filing or 371(c) Date: 01/07/2004	:	ON PETITION
Title of Invention:	:	
VEHICLE MOUNTED SATELLITE ANTENNA	:	
SYSTEM WITH IN-MOTION TRACKING USING	:	
BEAM FORMING	:	

This is a decision on the "Petition to Revive Patent Application Unavoidably Abandoned Under 37 CFR 1.137(a), filed August 23, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of 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 Notice of Allowance and Issue Fee Due (Notice), mailed April 7, 2006. The Notice set a non-extendable three (3) month period for reply. No timely and proper reply having been received, the application became abandoned on July 8, 2006. A Notice of Abandonment was mailed August 7, 2007.

The present petition

Applicant files the present petition and issue fee, and explains that payment of the issue fee was unavoidably delayed because of a planned closure of the assignee company. Applicant states that he was heavily engaged in finding new investors, financial restructuring, retaining key employees, engaging management and investment team, and transferring patent supervision to Northern California. There were no resources available, Applicant states, to pay fees. Applicant restates that financial reorganization and top level management change in control of assignee and

applicant's employer resulted in the transfer of patent counsel responsibility and movement of files from Southern California to new team in Northern California unavoidably delaying the payment of the issue fee. No documentary support for applicant's assertion that applicant lacked the financial resources to pay the issue fee have been provided.

A Grantable Petition Under 37 CFR 1.137(a)

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

The present petition lacks item (3).

Applicable Law, Rules and MPEP

As to item (3), Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. 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 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).

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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).

Analysis

The standard requires Petitioner to demonstrate that he acted as a prudent and careful person in relation to is most important business. 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.

Petitioner asserts the delay was unavoidable due to a reorganization and a transfer of patent counsel and movement of files. In this regard, petitioner is reminded that the standard requires petitioner to act as a prudent and careful person in relation to his most important business. Petitioner was otherwise engaged in other business which, which petitioner admits prevented petitioner from attending to the timely payment of the issue fee. As such, petitioner has failed to demonstrate that he acted as a prudent and careful person in relation to his most important business – to wit, the timely payment of the issue fee.

Petitioner also asserts financial inability as the cause of unavoidable delay, however, Petitioner has not provided any evidence outside of his own statement in the petition to support this assertiony. A showing of "unavoidable" delay based upon financial difficulty must establish that the responsible party (i.e., an individual or the company) lacked the financial resources to pay the issue fee for the above-identified application in a timely manner. To establish that the responsible party did not have the financial resources to pay the issue fee during the relevant period, petitioner should provide a month by month accounting of the responsible party's income, profits, credits, and asserts, as well as monthly obligations, expenses and bills (such as rent, mortgage, insurance, medical costs, utilities, etc.). Petitioner should also explain how much disposable income or profits the responsible party had on a monthly basis, which could have been used to pay the issue fee in a timely manner. The petitioner must provide the Office with copies of any documents that could confirm the responsible party's financial difficulty during the entire period from September 29, 2005, until the date of the filing of a grantable petition.

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.

Conclusion

Petitioner has failed to demonstrate that the delay in payment of the issue fee was unavoidable.

Alternate venue

It is noted that Applicant has filed 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."

A Decision on the petition to revive the application based upon unintentional delay is being mailed on even date herewith.

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 should be directed to the undersigned at (571) 272-3232. All other inquiries should be directed to the applicable Office.

Derek L. Woods
Attorney
Office of Petitions

CC: PATENTRY
P.O. BOX 151616
SAN RAFAEL CA 94915-1616

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Commissioner for Patents
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PETER WANG
103 ALMOND COURT
SAN RAFAEL, CA 94903

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OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	
Application No. 10/752794	:	DECISION
Filing or 371(c) Date: 01/07/2004	:	ON PETITION
Title of Invention:	:	
VEHICLE MOUNTED SATELLITE ANTENNA	:	
SYSTEM WITH IN-MOTION TRACKING USING	:	
BEAM FORMING	:	

This is a decision on the "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed July 31, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due (Notice), mailed April 7, 2006. The Notice set a non-extendable three (3) month period for reply. No timely and proper reply having been received, the application became abandoned on July 8, 2006. A Notice of Abandonment was mailed August 7, 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 and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR 06 2007

OFFICE OF PETITIONS

YATE' K. CUTLIFF, ATTORNEY AT LAW
PO BOX 15095
ST PETERSBURG, FL 33733-5095

In re Application of	:	
Thomas A. Plato, et al.	:	
Application No. 10752,801	:	DECISION ON PETITION
Filed: January 7, 2004	:	TO WITHDRAW
Attorney Docket No. 4011.001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 1, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Yate' K. Cutliff, Attorney at Law has been revoked by the applicant of the patent application on November 27, 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DEFILLO & ASSOCIATES, INC.
4922 EAGLE COVE SOUTH DRIVE
PALM HARBOR FL 34685

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

Jones Day (RIM) - 2N
North Point
901 Lakeside Avenue
Cleveland, OH 44114

Mail Date: 04/20/2010

Applicant	: Adrian Buckley	: DECISION ON REQUEST FOR
Patent Number	: 7610014	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/752,802	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **498** 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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Jones Day (RIM) - 2N
North Point
901 Lakeside Avenue
Cleveland, OH 44114

Mail Date: 05/17/2010

Applicant : Adrian Buckley
Patent Number : 7610014
Issue Date : 10/27/2009
Application No : 10/752,802
Filed : 01/07/2004

: 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 **518** 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 16 2004

WENDY K. BUSKOP
BUSKOP LAW GROUP, P.C.
SUITE 500
1717 ST. JAMES PLACE
HOUSTON TX 77056

In re Application of	:
Maurine E. Pearson et al.	:
Serial No.: 10/752,820	: PETITION TO MAKE SPECIAL
Filed: January 7, 2004	:
Attorney Docket No.: 1067.12	:

This is in response to applicants' petition filed January 7, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. 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.

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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HAYNES AND BOONE, LLP
901 MAIN ST
SUITE 3100
DALLAS TX 75202

COPY MAILED

FEB 1 3 2006

OFFICE OF PETITIONS

In re Application of :
Lukas Eisermann :
Application No. 10/752,860 : DECISION ON PETITION
Filed: January 7, 2004 :
Attorney Docket No. 31132.131 :

This is a decision on the petition under 37 CFR 1.181, filed on August 29, 2005, to withdraw the holding of abandonment. This petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On July 28, 2004, the Office mailed a Restriction Requirement, which set a one-month shortened statutory period to reply. In the apparent absence of a timely and proper response, the Office mailed a Notice of Abandonment on May 3, 2005. The Notice of Abandonment stated that the above-identified application was abandoned in view of applicant's failure to timely file a proper reply to the Office letter mailed on August 23, 2004. Petitioner argues that after reviewing the PAIR database, there is no record of an Office action mailed on August 23, 2004. The Office concurs.

Furthermore, petitioner asserts that a proper response was filed timely. In support of the petition, petitioner submits a copy of a "Response to Restriction Requirement," and a returned, date-stamped postcard receipt,[1] acknowledging receipt of "Response to Election/Restriction Requirement " in the USPTO on August 23, 2004.

The Office has located the original "Response to Restriction Requirement," which contains a certificate of mailing dated August 20, 2004. Accordingly, it is concluded that the response was filed timely in the USPTO on August 20, 2004.

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

[1] Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

The petition is **granted**.

This matter is being referred to Technology Center Art Unit 3738 for further processing.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DIW Oct-06

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

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OCT 27 2006
OFFICE OF PETITIONS

In re Application of	:	
Gupta et al.	:	
Application No. 10/752,880	:	DECISION ON PETITION
Filed: 6 January, 2004	:	
Atty Docket No. 23085-08576	:	

This is a decision on the petition filed on 25 July, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 27 December, 2005, for failure to timely file a response to the non-final Office action mailed on 26 September, 2005, which set a three (3) month

---

[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)).

shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 22 September, 2006.

Petitioner has filed an amendment to the specification and claims as the required reply.

This application is being referred to Technology Center Art Unit 3661 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Bossi, et. al.	:	
Application No. 10/752,890	:	DECISION ON PETITION
Filed: January 7, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 038190/269130	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 21, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the petition.

The petition is **DISMISSED.**

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

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

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

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

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

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

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

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

Any questions concerning this matter may be directed to Andrea Smith at (571) 272-3226.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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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OCT 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Richard H. Bossi, et. al.	:	
Application No. 10/752,890	:	DECISION ON PETITION
Filed: January 7, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 038190/269130	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 26, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed June 21, 2005.

The petition is **GRANTED**.

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

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

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed 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.

This application is being referred to Technology Center Art Unit 2856 to await a response to the Final Office action mailed August 29, 2005, and for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

United States
Patent And
Trademark Office

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

PETITION DECISION

05/11/04

Alston & Bird LLP
James C. Edwards
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/752891 received on 04/30/04 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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MAY 11 2004

In re Application of	:	
Raymond Welles	:	
Serial No. 10/752,907	:	DECISION ON PETITION
Filed: January 6, 2004	:	TO MAKE SPECIAL
For: GOLF SWING PRACTICING	:	
DEVICE AND METHOD	:	

Applicant's petition, filed January 6, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Frishauf, Holtz, Goodman and Chick, PC
767 Third Avenue, 25th Floor
New York, NY 10017-2023

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WOMBLE CARLYLE SANDRIDGE & RICE
P.O. Box 7037
Atlanta, GA 30357-0037

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FEB 24 2006

OFFICE OF PETITIONS

In re Application of :
Jeffrey W. Stone :
Application No. 10/752,909 :
Application Filing Date: January 7, 2004 :
Attorney Docket No. R087.1284.1

DECISION ON PETITION UNDER
37 CFR 1.137(f)

This is a decision on the petition under 37 CFR 1.137(f), filed February 1, 2006, to revive the instant non-provisional application.

The petition under 37 CFR 1.137(f) is granted.

This application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B(iii) for failure to timely notify the Office of the filing of an application in a foreign country.

A petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty[1]; (2) the petition fee as set forth in 37 CFR 1.17(m), and (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition is found in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The application file is being directed to Technology Center 3600, GAU 3641 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: "Communication Regarding Rescission of Non-Publication Request and/or Notice of Foreign Filing"
Corrected Filing Receipt

[1] The filing of a petition under this section will not relieve applicant of his obligation to reply to any outstanding Office action.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 07-04

Paper No: __

HENRY D. COLEMAN
COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGEPORT CT 06605-1601

COPY MAILED
JUL 1 3 2004
OFFICE OF PETITIONS

In re Application of
Cole, et al.
Application No. 10/752,937
Filed: 7 January, 2004
Attorney Docket No. N12-002

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 1 June, 2004.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 7 January, 2004, without, *inter alia*, a fully executed oath or declaration; and
- on 12 April, 2004, the Office mailed a Notice to File Missing Parts;
- on 1 June, 2004, Petitioner Henry D. Coleman (Reg. No. 32,559) filed the instant petition with fee with, *inter alia*, a statement by Curtis L. Schrandt, an oath/declaration signed by inventor Laurence Cole (for himself and the non-signing inventors Murugan R. Pandian (Mr. Pandian) and Julie Y. Lu (Ms. Lu), and made the required showing that the entire application

(specification (description, claims, abstract) and drawings) was sent to the non-signing co-inventors Mr. Pandian and Ms. Lu.

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(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 returned to Technology Center 1600 for processing as necessary to reflect the instant decision, and further processing in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 07-04

Paper No: __

MURUGAN R. PANDIAN
27432 ALMENDRA
MISSION VIEJO, CA 92691

COPY MAILED
JUL 1 3 2004
OFFICE OF PETITIONS

In re Application of
Cole, et al. :
Application No. 10/752,937 : CORRESPONDENCE
Filed: 7 January, 2004 :
Attorney Docket No. N12-002 :

Dear Murugan R. Pandian:

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, ¶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 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 correspondence may be directed to the undersigned at (703) 305-9199.

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

Counsel of Record:
HENRY D. COLEMAN
COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGEPORT CT 06605-1601

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JJGJR.: 07-04

Paper No: __

JULIE Y. LU
26255 BUSCADOR
MISSION VIEJO, CA 92692

COPY MAILED
JUL 1 3 2004
OFFICE OF PETITIONS

In re Application of
Cole, et al. :
Application No. 10/752,937 : CORRESPONDENCE
Filed: 7 January, 2004 :
Attorney Docket No. N12-002 :

Dear Julie Y. Lu:

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, ¶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 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 correspondence may be directed to the undersigned at (703) 305-9199.

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

Counsel of Record:
HENRY D. COLEMAN
COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGEPORT CT 06605-1601

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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LAW OFFICES OF ALBERT WAI-KIT CHAN, PLLC
141-07 20TH AVENUE, SUITE 604
WORLD PLAZA
WHITESTONE NY 11357

COPY MAILED

DEC 16 2008

OFFICE OF PETITIONS

In re Application	:	
Livingston, et al.	:	
Application No. 10/752,945	:	PATENT TERM ADJUSTMENT
Filed: January 6, 2004	:	
Dkt. No.: #695-B-PCT-US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed October 23, 2008. This matter is being treated as an application for patent term adjustment pursuant to the provisions of 37 CFR 1.705(b).

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **HELD IN ABEYANCE**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed July 24, 2008, indicated a patent term adjustment (PTA) to date of 347 days. The instant application for PTA was timely filed October 23, 2008. Applicants argue that the application is entitled to an adjustment of 1,106 days, which would include adjustment under the provisions of 37 CFR 1.702(b).

The correct PTA at the time of the allowance is 347 days, as indicated on the Determination of Patent Term Adjustment mailed July 24, 2008.

Applicants herein do not contest the adjustment of 347 days.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date of the application. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request.

Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. *See*, 35 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

In view thereof, as of the time of allowance, the application is entitled to an adjustment of 347 days.

Receipt is hereby acknowledged of the required PTA application fee of $200.00.

Applicants are further advised that 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 forwarded to the Office of Data Management for processing into a patent.

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

Kery A Fries

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

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MAR 15 2010

OFFICE OF PETITIONS

LAW OFFICES OF ALBERT WAI-KIT CHAN, PLLC
141-07 20TH AVENUE
WORLD PLAZA, SUITE 604
WHITESTONE NY 11357

In re Patent No. 7,479,266	: DECISION ON APPLICATION FOR
Issued: January 20, 2009	: PATENT TERM ADJUSTMENT and
Application No. 10/752,945	: NOTICE OF INTENT TO ISSUE
Filed: January 6, 2004	: CERTIFICATE OF CORRECTION
Dkt. No.: #695-B-PCT-US	:

This is a decision on the petition filed on February 20, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1,092 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 (1,092 days is **GRANTED**.

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1,092 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,479,266

DATED : **January 20, 2009** **DRAFT**

INVENTOR(S) : Livingston, 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 627 days

Delete the phrase "by 627 days" and insert – by 1,092 days--

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THE WEBB LAW FIRM
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

COPY MAILED
OCT 3 0 2006
OFFICE OF PETITIONS

In re Patent No. 7,017,528 :
Issue Date: March 28, 2006 :
Application No. 10/752,946 : ON PETITION
Filed: January 7, 2004 :
Attorney Docket No. 388-032287 :

This is a decision on the petition filed June 22, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

United States
Patent And
Trademark Office

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

PETITION DECISION

04/12/04

Burns, Doane, Swecker & Mathis, L.L.P.
Stephen J. Tytran
P.O. Box 1404
Alexandria, VA 22313-1404

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/752966 received on 03/05/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/752,970	01/07/2004	2818	1396	5308-371	3	50	4

CONFIRMATION NO. 4831

CORRECTED FILING RECEIPT

OC000000012812198

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

Date Mailed: 06/01/2004

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)

Adam William Saxler, Durham, NC;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/09/2004

Projected Publication Date: 07/07/2005

Non-Publication Request: No

Early Publication Request: No

Title

Co-doping for fermi level control in semi-insulating Group III nitrides

Preliminary Class

257

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

GRANTED

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

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

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

NOT GRANTED

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

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MAGINOT, MOORE & BECK LLP
CHASE TOWER
111 MONUMENT CIRCLE, SUITE 3250
INDIANAPOLIS IN 46204-5109

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DEC 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Thomas C. Frampton, et al.	:	
Application No.: 10/752,972	:	ON PETITION
Filed: January 7, 2004	:	
Attorney Docket No.: 1904-0142	:	

This is a decision on the petition, filed December 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 10, 2006, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3745 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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OFFICE OF PETITIONS

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

In re Application of	:	
Setsuo Nakajima	:	
Application No. 10/752,993	:	DECISION GRANTING PETITION
Filed: January 8, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2683	:	

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 26, 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 2814 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.*

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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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AUG 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Radovanovic et al.	:	
Application No. 10/752,995	:	Decision on Petition
Filing Date: January 7, 2004	:	
Attorney Docket No. 20068.0005US01	:	

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

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 20, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on January 21, 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.

James Larson signed the instant petition. If Larson, or his law firm, 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 Larson, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Technology Center Art Unit 3747 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

cc: Hamre, Schumann, Mueller & Larson, P.C.
P.O. Box 2902-0902
Minneapolis, MN 55402-0902

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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
10/753,000	01/05/2004	3649	860	02-0611	4	25	3

CONFIRMATION NO. 6475

CORRECTED FILING RECEIPT

OC000000012462487

08840
ECKERT SEAMANS CHERIN & MELLOTT, LLC
ALCOA TECHNICAL CENTER
100 TECHNICAL DRIVE
ALCOA CENTER, PA 15069-0001

Date Mailed: 04/30/2004

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

Applicant(s)

Thomas E. Harbin, Westminster, CA;
Hai-Tao Wang, Fountain Valley, CA;
Michael U. March, Torrance, CA;

Domestic Priority data as claimed by applicant

This application is a DIV of 10/186,940 06/28/2002 PAT 6,702,684
which is a CIP of 10/117,741 04/05/2002 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 04/09/2004

Projected Publication Date: 08/05/2004

Non-Publication Request: No

Early Publication Request: No

Title

Swage type fastener

Preliminary Class
470

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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PETITION DECISION

05/24/04

Richard J. Minnich
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114-2518

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/753014 received on 05/14/04 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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A. BURGESS LOWE
101 EAST MAPLE STREET
NORTH CANTON, OH 44720

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SEP 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Kegg et al.	:	
Application No. 10/753,017	:	DECISION ON PETITION
Filed: January 7, 2004	:	
Attorney Docket No. 2701	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 29, 2009, to revive the above-identified application.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Kenneth J. Satchel 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 in whose behalf he acts. If, Mr. Satchel desires to receive correspondence regarding this file, the appropriate power of attorney documents should be submitted and the proper change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to Mr. Satchel, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 30, 2009, as required by the Notice of Allowance and Fee(s) Due mailed December 30, 2008. Accordingly, the application became abandoned on March 31, 2009.

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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KENNETH STACHEL
TTI FLOORCARE NORTH AMERICA, INC.
7005 COCHRAN ROAD
GLENWILLOW, OH 44139

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Steven W. Kegg	: DECISION ON REQUEST FOR
Patent Number	: 7624473	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/753,017	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **730** 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

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

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Phillip L. Lam	:	
Application No. 10/753019	:	DECISION
Filing or 371(c) Date: 01/06/2004	:	ON PETITION
Attorney Docket Number PERFECT-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 5, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 6, 2006.

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

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

This application is being referred to Technology Center AU 3724 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted with the petition in accordance with 37 CFR 1.114.

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Phillip L. Lam	:	
Application No. 10/753019	:	ON PETITION
Filing Date: 01/06/2004	:	
Attorney Docket Number:	:	
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Derek L. Woods
Attorney
Office of Petitions

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SCHMEISER OLSEN & WATTS
18 E UNIVERSITY DRIVE
SUITE # 101
MESA, AZ 85201

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OCT 1 0 2006
OFFICE OF PETITIONS

In re Application of Rebeske :
Application No. 10/753,021 : Decision on Petition
Filing Date: January 6, 2004 :
Attorney Docket No. REBE-10129 :

This is a decision on the petition, filed June 9, 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 December 1, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-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 January 11, 2007, accompanies this decision on petition.

The Office acknowledges receipt of the publication fee along with the issue fee.

The Office of Publications will be informed of the instant decision and will take steps to have the application issued as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/753,021	01/06/2004	Carlton Rebeske	REBE-10129

CONFIRMATION NO. 5492

23123
SCHMEISER OLSEN & WATTS
18 E UNIVERSITY DRIVE
SUITE # 101
MESA, AZ 85201

Date Mailed: 10/05/2006

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 01/11/2007.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/753,021	01/06/2004	Carlton Rebeske	REBE-10129

CONFIRMATION NO. 5492

23123
SCHMEISER OLSEN & WATTS
18 E UNIVERSITY DRIVE
SUITE # 101
MESA, AZ 85201

Date Mailed: 10/05/2006

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 01/11/2007.

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.

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[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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STANDLEY LAW GROUP LLP
6300 Riverside Drive
Dublin, OH 43017

Mail Date: 04/21/2010

Applicant	: Ralph Reese	: DECISION ON REQUEST FOR
Patent Number	: 7630905	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/753,025	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1082** 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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JJGJR.: 08-07

Paper No:__

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AUG 2 7 2007

OFFICE OF PETITIONS

NEKTAR THERAPEUTICS
150 INDUSTRIAL ROAD
SAN CARLOS CA 94070

In re Application of	:	
Kozlowski, et al.	:	DECISION
Application No. 10/753,047	:	
Filing Date: 6 January, 2004	:	
Attorney Docket No.: SHE0067.00	:	

This is a decision on the petition filed on 2 November, 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 petitions as considered under 37 C.F.R. §1.181 are **GRANTED**.

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 8 March, 2006, with reply due absent extension of time on or before 8 April, 2006;

[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.**

- the application went abandoned by operation of law after midnight 8 April, 2006;
- the Office mailed the Notice of Abandonment on 2 October, 2006;
- on 2 November, 2006, Petitioner filed the instant petition, recited that a reply was timely submitted, and provided a copy of that reply in the form of an Election with a statement complying with the practice set forth in the Commentary at MPEP §711.03 (c) (discussed below), including a copy of the date-stamped (23 March, 2006) USPTO FAX Confirmation evidencing receipt by the Office of, *inter alia*, the reply in the form of five (5) pages including cover sheet, and Petitioner further evidences that his cover sheet was one page, his Response was one page and his arguments were three pages–thus, the five pages acknowledged in receipt 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 the showing requirement described above and satisfied his burden herein.

CONCLUSION

The instant petition under 37 C.F.R. §1.181 hereby is **granted**; and the 2 October, 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 1700 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

MONIQUE SHONKA
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Kathryn E. Uhrich	:	DECISION ON PETITION
Application No. 10/753,048	:	TO WITHDRAW
Filed: January 6, 2004	:	FROM RECORD
Attorney Docket No. 1435.017US2	:	

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 24, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on May 1, 2006 the power of attorney to Schwegman, Lundberg & Woessner, P.A. 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: Viksnins Harris & Padys PLLP
P.O. Box 111098
St. Paul MN 55111-1098

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RALEIGH, NORTH CAROLINA 27627

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JAN 31 2005

OFFICE OF PETITIONS

In re Application of :
Vosburgh et al. :
Application No. 10/753,050 :
Filed: January 7, 2004 : ON PETITION
Attorney Docket No. :
9372-4 :

This is a decision in response to the Petition to Accord The Proper Filing Date, filed September 22, 2004, requesting the application be accorded a filing date of January 7, 2004, instead of the presently accorded filing date of January 8, 2004.

This Petition is hereby **granted**.

Petitioner alleges that the application was deposited in Express Mail service on January 7, 2004. In support of this assertion, the petition is accompanied by a copy of Applicant's Utility Patent Application Transmittal Letter and Fee Transmittal Form (37 CFR § 1.53(b)), consisting of three consecutively numbered pages. The first page identifies Applicant's Attorney Docket Number, and the inventive entity for the above-identified application. The last page (3 of 3), contains Applicant's Certificate of Express Mailing and certifies that Express Mail Label No. EV381448523 was deposited Express Mail Post Office to Addressee on January 7, 2004. Applicant has also provided a copy of Express Mail label No. EV381448523US. A review of the Express Mail label, No. EV381448523US, reveals that the Express Mail label contains a United States Postal Service (USPS) stamp, also dated January 7, 2004.

In view of the above, the petition is **granted**. No fee has been charged and none is due.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

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NEW YORK, NY 10150-5257

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OFFICE OF PETITIONS

In re Application of
Mohammad R. Marzabadi et al
Application No. 10/753,057
Filed: January 6, 2004
Attorney Docket No. 20082/1200720-US8

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition, filed April 6, 2005, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

The concurrently filed amendment to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and a substitute amendment[1] deleting the improper incorporation by reference statement is required.

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

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

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

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

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *Note* 37 CFR 1.121

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OFFICE OF PETITIONS

In re Application of
Mohammad R. Marzabadi et al
Application No. 10/753,057
Filed: January 6, 2004
Attorney Docket No. 20082/1200720-US8

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

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) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an

amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 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 1.78(a)(6) should <u>not</u> be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

It is noted that petitioner has submitted a second surcharge fee of $1,370 pursuant to the provisions of 37 CFR 1.17(t). However, since the surcharge fee required by 37 CFR 1.17(t) was previously submitted with the petition under 37 CFR 1.78 on April 6, 2005, this second fee is unnecessary and is refundable. Accordingly, as authorized in the accompanying Fee Transmittal, the duplicate $1,370 surcharge fee will be credited to petitioner's deposit account.

Any questions concerning this matter 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 1625 for appropriate action on the amendment submitted November 3, 2005, including consideration by the examiner of the claim for benefit of the prior-filed applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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LaRiviere, Grubman & Payne, LLP
P.O. Box 3140
Monterey CA 93942

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AUG 01 2008

In re Application of	:	
Noel Lee	:	
Application No. 10/753,066	:	ON PETITION
Filed: January 6, 2004	:	
Attorney Docket No.: P1560	:	

This is a decision on the "Petition to Withdraw Terminal Disclaimer Before Patent Issuance" filed July 8, 2008.

The petition is **dismissed**.

A review of the application file history reveals that on June 29, 2006, a terminal disclaimer was filed to obviate a double patenting rejection over a pending reference application, non-provisional application 10/655,494. The terminal disclaimer was deemed necessary to overcome a double patenting rejection of Claims 1-19 of application 10/753,066 as being unpatentable over Claims 1-22 of application 10/655,494. The instant petition now requests that the terminal disclaimer be withdrawn because application 10/655,494 is in an abandoned status and will not issue into a patent.

Section 1490 of the Manual of Patent Examination Procedure, provides, in pertinent part, that, "[p]etitions seeking to reopen the question of the propriety of the double patenting rejection that prompted the filing of the terminal disclaimer have not been favorably considered." Such is the case with instant petition, as the reason given for withdrawing the terminal disclaimer is based on circumstances that are fluid and, arguably, likely to change in the future. A review of the application file history of application 10/655,494 reveals that the application became abandoned on February 28, 2007, for failure to respond to a non-final Office action mailed November 28, 2007. Although the application is in an abandoned status, the application has not been expressly abandoned pursuant to 37 CFR 1.138 and can be revived at any point. The future status of application 10/655,494 is unknown. As the reference application may be returned to pending status, withdrawal of the terminal disclaimer based on the present abandonment of application 10/655,494 would not be proper. The petition is dismissed accordingly.

It is noted that petitioner filed the instant petition as a petition under 37 CFR 1.59 to expunge the terminal disclaimer. The petition is appropriately considered under 37 CFR 1.182 . See MPEP 1490.
The petition fee is $400.00. Any renewed petition must be accompanied by an additional $200.00 in satisfaction of the petition or the renewed petition will be summarily dismissed.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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P.O. Box 3140
Monterey CA 93942

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OFFICE OF PETITIONS

In re Application of :
Noel Lee :
Application No. 10/753,066 :
Filed: January 6, 2004 :
Attorney Docket No.P1560 :

ON PETITION

This is a decision on the renewed petition, filed August 13, 2008, under 37 CFR 1.182 to withdraw a terminal disclaimer.

The petition is **granted**.

Examiner Phylesha Dabney has determined that it is appropriate for the terminal disclaimer filed June 29, 2006, to be withdrawn[1]. The terminal disclaimer is withdrawn, accordingly.

The application is being directed to Technology Center 2600, GAU 2641 for further processing including entry in the record of the withdrawal of the terminal disclaimer filed June 29, 2006.

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

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] It is noted that Examiner Dabney made this determination after consulting with supervisory staff in Technology Center 2600. The undersigned thanks Examine Dabney for her consideration.

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AUG 24 2004

IRA J. SCHULTZ
DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
SUITE 105
1727 KING STREET
ALEXANDRIA VA 22314-2700

In re Application of	:
Jacques Paris et al	:
Serial No.: 10/753,073	: PETITION TO MAKE SPECIAL
Filed: January 8, 2004	:
Attorney Docket No.: 04000CIP	:

This is in response to applicants' petition filed June 3, 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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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of :
HOPPE, Holger :
Application No. 10/753,075 :
Filed: January 8, 2004 :
Attorney Docket No. **QIM 2002 P 50528 US** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 2, 2007.

The request is **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 September 11, 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: **SLATER & MATSIL LLP**
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

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777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE, WI 53202-5308

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OFFICE OF PETITIONS

In re Application of	:	
Robert Kopras et al.	:	
Application No. 10/753,094	:	DECISION GRANTING
Filed: January 7, 2004	:	STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No. 035568-0122	:	

This is in response to the petition filed September 17, 2004, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

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

The above-identified application and papers have been reviewed and found in compliance with 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.

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

Frances Hicks

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

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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/26/2010

Applicant	: William F. Ogilvie	: DECISION ON REQUEST FOR
Patent Number	: 7641696	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/753,108	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1109** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of 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
10/753,116	01/07/2004	1615	385	225849	8	4	1

CONFIRMATION NO. 5202

CORRECTED FILING RECEIPT

OC000000013010615

23460
LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

Date Mailed: 06/21/2004

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)

Michael J. Kubek, Indianapolis, IN;

Assignment For Published Patent Application

Advanced Research and Technology Institute, Inc., Indianapolis, IN;

Domestic Priority data as claimed by applicant

This application is a DIV of 10/256,691 09/27/2002 PAT 6,699,491
which is a DIV of 09/897,179 07/02/2001 PAT 6,491,939
which is a DIV of 09/242,776 02/22/1999 PAT 6,303,134
which is a 371 of PCT/US97/15184 08/28/1997
which claims benefit of 60/025,171 08/29/1996

Foreign Applications

If Required, Foreign Filing License Granted: 04/13/2004

Projected Publication Date: 07/22/2004

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Method for modulating glutamate and/or aspartate release in a central nervous system locus

Preliminary Class

424

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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LOS ANGELES CA 90013-1024

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JAN 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Toshiyuki Aiba	:	
Application No. 10/753,120	:	DECISION GRANTING PETITION
Filed: January 6, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 393032043100	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 24, 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 January 16, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Henegar, Kevin Edward	:	
Application No. 10/753,136	:	ON PETITION
Filed: January 7, 2004	:	
Attorney Docket No. 01238.US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 14, 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 1, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 2, 2005.

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

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

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/753,138	01/07/2004	1733	1036	100185		30	4

CONFIRMATION NO. 4430

CORRECTED FILING RECEIPT

OC000000012537330

29050
PHYLLIS T. TURNER-BRIM, ESQ., LAW DEPARTMENT
CABOT MICROELECTRONICS CORPORATION
870 NORTH COMMONS DRIVE
AURORA, IL 60504

Date Mailed: 05/05/2004

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

Applicant(s)

Francesco De Rege Thesauro, Naperville, IL;
Vlasta Brusic, Geneva, IL;
Benjamin P. Bayer, Aurora, IL;

Assignment For Published Patent Application

Cabot Microelectronics Corporation, Aurora, IL;

Domestic Priority data as claimed by applicant

Foreign Applications

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

Projected Publication Date: 07/07/2005

Non-Publication Request: No

Early Publication Request: No

Title

Chemical-mechanical polishing of metals in an oxidized form

Preliminary Class
156

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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DANIEL DEJOSEPH
F.L. SMIDTH INC.
2040 AVENUE C
BETHLEHEM, PA 18017-2188

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of :
Carlos Q. Letelier :
Application No. 10/753,151 :
Filed: January 7, 2004 :
Attorney Docket No. US-1364-FFEM :

ON PETITION

This is a decision on the petition filed February 19, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed March 26, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 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 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

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

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JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Michel G. Bergeron et al	:	
Application No. 10/753,169	:	NOTICE
Filed: January 7, 2004	:	
Attorney Docket No. 480844.90010	:	

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

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

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

The file does not indicate a change of address has been submitted, although the address given on the Request For Large Entity Status 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 Notice is being mailed to the address given on the Request For Large Entity Status; however, the Office will mail all future correspondence solely to the address of record.

Inquiries related to this communication should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1634.

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

cc: QUARLES & BRADY
P.O. BOX 2113
MADISON, WI 53701-2113

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 Dec-05

JORDAN M. MESCHKOW
MESCHKOW & GRESHAM, PLC
SUITE 409
5727 NORTH SEVENTH STREET
PHOENIX AZ 85014

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DEC 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Knecht et al.	:	
Application No. 10/753,179	:	DECISION ON PETITION
Filed: 6 January, 2004	:	
Atty Docket No. 3451-A-17CIP	:	

This is a decision on the petition filed on 23 June, 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 9 June, 2005, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 8 March, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/05/08

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/753189** Patent No.: **7039523**

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**.

A. Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

3/10/08

ELISEO RAMOS-FELICIANO
SUPERVISORY PATENT EXAMINER
SPE

2857
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: John Gibb Buchan	: DECISION ON REQUEST FOR
Patent Number	: 7584165	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/753,190	: 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 **317** 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

Mark T. Kresnak, Esq.
1 DNA Way
South San Francisco CA 94080-4990

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OCT 21 2005

OFFICE OF PETITIONS

Applicant: Hubert et al.
Application No. 10/753,195
Filed: January 6, 2004
For: SERPENTINE TRANSMEMBRANE ANTIGENS EXPRESSED IN HUMAN CANCERS AND USES THEREOF
Attorney Docket No: 39766-0163R1C1
Pub. No.: US 2005/0004349 A1
Pub. Date: February 3, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on March 7, 2005, for the above-identified application.

The request is granted-in-part.

Applicant requests that the application be republished because the patent application publication contains material errors as the publication includes an improper reference to PCT/US99/12157 in the first paragraph of the specification and errors in claims 4, 46, 48 and 56. The corrected patent application publication will be published in due course and will only include corrections for errors made by the Office.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors in the claims will be corrected as requested. The instant request also includes alleged error that is not the fault of the Office, which will not be corrected in the corrected publication by the Office.

The patent application publication does not include a mistake in the publication by the Office by with respect to the benefit claim. The reference to international application PCT/US99/12157 appears in the text of the application as filed. Patent application publications are not required to

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

include preliminary amendments, according to 37 CFR 1.215(a)[2], which says the following, in part:

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

§ 1.215(c) says the following:

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

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office has recently changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until this past year, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004). The preliminary amendments filed December 23, 2003 and September 30, 2004 do not comply with 37 CFR 1.121(b)(3) and 1.125. The only format for an amendment to the specification usable for publication is a substitute specification in compliance with 37 CFR 1.121(b)(3) and 1.125. The applicant did not supply a copy of the application in compliance with 37 CFR 1.215(c). The Office correctly published the application in accordance with 37 CFR 1.215(a).

Since 1997, the Office has been encouraging applicants to file patent applications under 35 U.S.C. 111(a), especially continuation and division applications, without preliminary amendments by including any desired changes as part of the specification and drawings of the new application. A copy of the declaration from the prior application can still be filed in a continuation or divisional application even if the specification filed in the continuation or divisional application is different from the prior application so long as the continuation or divisional application contains no new matter. See Changes to Patent Practice and Procedure, 62

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[2] Changes to Suport Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004), 1287 Off. Gaz. Pat. Office Notices 67 (October 12, 2004).

Fed. Reg. 53132, 53148 (October 10, 1997) (final rule); 1203 Off. Gaz. Pat. Office 63, 77 (October 21, 1997); 37 CFR 1.63(d)(1). By filing clean copies of application papers, i.e. without preliminary amendments, errors such as the ones that occurred in the application would be greatly reduced.

It would greatly benefit the Office if applicant did not provide a duplicate copy of a paper, as the Office then has to process a duplicate copy, which unnecessarily increases the cost to the Office. See 37 CFR 1.4(b).

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

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice)

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

6-19-06

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

Patent No. : 6,969,334
Inventor(s) : Schleuder, et. al.
Issued : November 29, 2005
Title : TRANSFER CASE WITH TUBULAR OUTPUT SHAFT
Docket No. : 6978-000198/COA

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
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.

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

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or (703) 305-8309

Philip E. Rettig
Harness, Dickey & Pierce, PLC
P.O. Box 828
Bloomfield hills, MI 48303

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD, HILLS MI 48303

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APR 13 2007

OFFICE OF PETITIONS

In re Patent No. 6,969,334	:	
Issued: November 29, 2005	:	
Application No. 10/753,223	:	ON PETITION
Filed: January 7, 2004	:	
Attorney Docket No. 6978-198/COA	:	

This is a decision on the petition filed May 24, 2006, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner states that the correct assignee's name is Magna Powertrain USA, Inc. and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to Magna Powertrain USA, Inc.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

While petitioner seeks to have a Certificate of Correction issued in the name of **Magna Powertrain USA, Inc.**, USPTO assignment records show **New Venture Gear, Inc.** as the assignee at the time of issuance. It is noted that petitioner states that the assignee changed from New Venture Gear, Inc. to Magna Powertrain USA, Inc.; however, there is no evidence that an

assignment was submitted for recordation prior to issuance of this patent. Therefore, issuance of the requested Certificate of Correction would not be proper.

As the record has shown, petitioner may file a certificate of correction under 37 CFR 1.323 requesting that American Axle & Manufacturing, Inc. be deleted on the patent and that New Venture Gear, Inc. be added to the front page of the patent.

Accordingly, **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (no further fee is required) which sets forth New Venture Gear, Inc., as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to Sherry D. Brinkley at (571) 272-3204. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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NOV 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Ferguson, Derek M.	:	
Application No. 10/753,232	:	DECISION ON PETITION
Filed: January 7, 2004	:	
Attorney Docket No. 2222.4360001/EJK/SCO	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 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 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 2100 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Tyco Healthcare Group LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

Mail Date: 04/21/2010

Applicant	: David T. Green	: DECISION ON REQUEST FOR
Patent Number	: 7624903	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/753,248	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1509** 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

DEC 20 2004

In re Application of Douglas C. Schlueter Serial No. 10/753,254 Filed: January 8, 2004 For: DUAL FUNCTION UV-ABSORBERS FOR OPHTHALMIC LENS MATERIALS	: : : : : :	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. See 37 CFR 1.313(b).

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to Cecilia Tsang at (571) 272-0562.

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

Bruce M. Kisliuk
Director, Technology Center 1600

Alcon Research, Ltd.
Patrick M. Ryan(Q-148)
R&D Counsel
6201 So. Freeway
Fort Worth TX 76134-2099

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TRANSPACIFIC LAW GROUP
617 NORTH DELAWARE STREET
SAN MATEO, CA 94401

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Hwang, et al.
Application No. 10/753,258
Filed: January 5, 2004
Attorney Docket No. N0127/PP/HH

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, and the petition under 37 CFR 1.137(a) to revive the above-identified application filed in the alternative, both filed July 5, 2005.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **DISMISSED**.

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

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

The above-identified application became abandoned for failure to reply to the Notice to File Corrected Application Papers mailed September 3, 2004, which set a shortened statutory period for reply of two (2) months from its mailing date. No response was received within the allowable period, and the application became abandoned on November 4, 2004. A Notice of Abandonment was mailed on May 12, 2005. The instant petition was filed on July 5, 2005, wherein petitioner maintains that the Notice to File Corrected Application Papers was never received.

TREATMENT UNDER 37 CFR 1.181(a)

Section 711.03(c) of the Manual of Patent Examining Procedure (MPEP) explains the evidentiary showing that must be made in order for a petition to withdraw the holding of abandonment based on nonreceipt of an Office action and states, in pertinent part, that:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

Petitioner has indicated that relevant docket records were not provided with the petition because petitioner does not maintain docket records for incoming correspondence from the Patent and Trademark Office. It is noted that the aforementioned section of the MPEP intimates that the evidentiary burden for this kind of petition has been minimized to make it less burdensome on the petitioner requiring only a search of the file jacket, a statement of knowledge, and a copy of the docket records. Petitioner is requesting that the holding of abandonment be withdrawn without the having met the minimal evidentiary burden of supplying the relevant docket records. This request cannot be granted. Petitioner has not met the minimal evidentiary burden required and the petition is dismissed, accordingly.

TREATMNET UNDER 37 CFR 1.137(a)

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

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

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

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

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

Application of the standard to the current facts and circumstances

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reason petitioner's argument must necessarily fail are addressed below.

Where non-receipt of an Office action is advanced as the reason for the delay in responding to the Office action, the evidentiary burden imposed by a petition under 37 CFR 1.137(a) is the same as the evidentiary burden imposed by the petition to withdraw the holding of abandonment. Accordingly, the petition under 37 CFR 1.137(a) is dismissed for the same reason indicated above as the petition to withdraw the holding of abandonment.

It is further noted that a successful petition under 37 CFR 1.137(a) requires that petitioner making a "showing", or establish, that the delay was unavoidable. Without the docket records, petitioner is not able to make the required showing. Further, petitioner is required to demonstrate that petitioner acted reasonably and prudently relative to the prosecution of the application. Arguably, it is both reasonable and prudent for petitioner to maintain a docketing system for the incoming and outgoing correspondence

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[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

relative to the prosecution of the subject application. Presumably, these docket records could be useful in many circumstances that could arise during the prosecution of the application. Petitioner's failure to maintain these records is arguably, imprudent, and belies the assertion that delay in responding to the Notice to File Corrected Application Papers was unavoidable.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

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

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

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

TRANSPACIFIC LAW GROUP
617 NORTH DELAWARE STREET
SAN MATEO, CA 94401

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OFFICE OF PETITIONS

In re Application of	:	
Ing-Shouh Hwang et al	:	
Application No. 10/753,258	:	ON PETITION
Filed: January 5, 2004	:	
Attorney Docket No. N0127/PP/HH	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed September 3, 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 November 4, 2004.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a 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 Wan Laymon at (571) 272-3220.

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

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

cc: SUGHRUE MION
401 CASTRO STREET, STE 220
MOUNTAIN VIEW, CA 94041-2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

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MAY 0 5 2005

OFFICE OF PETITIONS

In re Application of :
James D. Murray, Gary B. Anderson, Elizabeth :
A. Maga, Sushma Pati and David A. Zarling :
Application No. 10/753,266 :
Filed: January 7, 2004 :
Attorney Docket No. UCAL-246 :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed July 1, 2004. The petition was recently forwarded to this office for review.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on January 7, 2004 without an executed oath or declaration and naming James D. Murray, Gary B. Anderson, Elizabeth A. Maga, Sushma Pati and David A. Zarling as joint inventors.

Accordingly, on March 4, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on July 1, 2004, the instant petition and a two (2) month extension of time were filed.

A grantable petition under 37 CFR 1.47(a) requires:

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1) and (2), as set forth above.

As to item (1), applicant has failed to show that the non-signing inventors cannot be found or reached. Applicant has stated that letters were mailed to the non-signing inventors at their last known address, and that the letters was returned because the addressees could not be found at the address given. However, applicant has not submitted a statement of facts that describes any diligent efforts applicant has used to locate the non-signing inventor thereafter.

Where inability to find or reach a non-signing inventor "after diligent effort" is the reason for filing under 37 CFR 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 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, telephone directory searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the non-signing inventors could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the non-signing inventors should be included statement of facts. It is important that the statement contain facts as opposed to conclusions. *See* MPEP 409.03(d).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration submitted July 1, 2004 does not include the citizenship of Sushma Pati or David A. Zarling. Please note, the citizenship requirement is statutory and cannot be waived. *See* 35 USC 115.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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TANYA M. HARDING
KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Steven M. Watkins	:	DECISION ON PETITION
Application No. 10/753,289	:	TO WITHDRAW
Filed: January 5, 2004	:	FROM RECORD
Attorney Docket No. 559312000900	:	

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 7, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on January 24, 2006 the power of attorney to Klarquist Sparkman, LLP was revoked by 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: Morrison & Foerster LLP
755 Page Mill Rd
Palo Alto CA 94304-1018

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Steven M. Miller	: DECISION ON REQUEST FOR
Patent Number	: 7620896	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/753,297	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **884** 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

RECEIVED
OCT 16 2001
Law Office of
Jim Zegeer

Paper No. 13

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OCT 15 2001
OFFICE OF PETITIONS

JIM ZEGEER
SUITE 108
801 NORTH PITT STREET
ALEXANDRIA VA 22314

In re Application of
Huang, Ma, Chen, Wu
Application No. 09/548,671
Filed: April 13, 2000
Docket No. 2949-Z

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed October 12, and supplemented October 15, 2001.

The petition is granted.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at their addresses given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette. As all declarations may be read, in combination, to satisfy the requirements of 37 CFR 1.63, see MPEP 602.02, the declaration signed by Wu which lacks the citizenship of all non-signing inventors, coupled with the unsigned declaration filed October 15, 2001, which provides the lacking information, are accepted.

The application papers have been reviewed again and now found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status and Office of Initial Patent Examination is authorized to

(1) accept this application under 37 CFR 1.47(a); and

(2) process the application with the inventors being Eduard Huang, Jonny Ma, Scott Chen, and Paul Wu; and.

(3) mail a filing receipt with a filing date of April 3, 1999.

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703)305-1820.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 14

Scott Chen
9F No. 12 Tai-Chung 10th Street
Tao-Yuan City
Taiwan ROC

COPY MAILED
OCT 1 5 2001
OFFICE OF PETITIONS

In re Application of :
Huang, Ma, Chen, Wu :
Application No. 09/548,671 :
Filed: April 13, 2000 :
Docket No. 2949-Z :

Dear Mr. Chen

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

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

Inquiries related to this communication may be addressed to the undersigned at (703) 305-1820. 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).

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

cc: JIM ZEGEER
SUITE 108
801 NORTH PITT STREET
ALEXANDRIA VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 14

Jonny Ma
No. 28 Long-Fong 2nd Street
Tao-Yuan City
Taiwan ROC

COPY MAILED

OCT 1 5 2001

OFFICE OF PETITIONS

In re Application of :
Huang, Ma, Chen, Wu :
Application No. 09/548,671 :
Filed: April 13, 2000 :
Docket No. 2949-Z :
:

Dear Mr. Ma

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

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

Inquiries related to this communication may be addressed to the undersigned at (703) 305-1820. 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).

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

cc: JIM ZEGEER
SUITE 108
801 NORTH PITT STREET
ALEXANDRIA VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 14

Edward Huang
3F No. 109 Gen 1st Street
Tao-Yuan City
Taiwan ROC

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OCT 1 5 2001

OFFICE OF PETITIONS

In re Application of :
Huang, Ma, Chen, Wu :
Application No. 09/548,671 :
Filed: April 13, 2000 :
Docket No. 2949-Z :
:

Dear Mr. Huang

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

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

Inquiries related to this communication may be addressed to the undersigned at (703) 305-1820. 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).

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

cc: JIM ZEGEER
SUITE 108
801 NORTH PITT STREET
ALEXANDRIA VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

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JUN 0 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Wu, et al.	:	DECISION ON PETITION
Application No. 10/753,318	:	
Filed: January 9, 2004	:	
Docket No.: WUEN3001/EM	:	

This is a decision on the "PETITION TO ACCEPT SUBMISSION OF LOST OR MISPLACED PAPERS" filed April 3, 2006. This matter is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

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

This application was held abandoned December 13, 2005 for failure to timely submit a proper reply to the non-final Office action mailed September 12, 2005. This decision precedes Notice of Abandonment.

Petitioners assert that a response to the non-final Office action, a terminal disclaimer (and fee), as well as a petition for extension of time were timely submitted on January 11, 2006, and has submitted as proof of USPTO receipt of the reply a copy of a return postcard dated stamped January 11, 2006 as well as a copy of a canceled check.

The original response to the non-final Office action, a terminal disclaimer (and fee), as well as a petition for extension of time submitted January 11, 2006 have not been located. However, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

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

The application file is being forwarded to Technology Center 1700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Jean-Paul Faure	: DECISION ON REQUEST FOR
Patent Number	: 7574138	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/753,328	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **891** 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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JJGJR.: 04-06

Paper No:__

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

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APR 0 7 2006

OFFICE OF PETITIONS

In re Application of :
Watanabe :
Application No. 10/753,338 :
Filing Date: 9 January, 2004 :
Attorney Docket No.: 246924US3 DIV :

DECISION

This is a decision on the petition filed on 27 March, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- it appeared that Petitioner failed to reply timely and properly to the final Office action mailed on 27 January, 2005, with reply due absent and extension of time on or before 27 April, 2005;

- while Petitioner filed on 27 April, 2005, an after-final amendment, the Examiner found it not to be a proper reply (in that it did not *prima facie* place the application in condition for allowance[1]), and mailed an Advisory Action on 15 May, 2005;

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or RCE (with fee and submission). (See: MPEP §711.03(c).)

- the application went abandoned after midnight 27 April, 2005;
- when it appeared further that Petitioner had not replied timely and properly following the Advisory action, the Office mailed the Notice of Abandonment on 26 January, 2006;
- on Monday, 27 March, 2006, Petitioner filed the instant petition with the allegation that a proper and timely reply had been filed on 27 May, 2005 (with the request and fee for a one- (1) month extension of time), in the form of a request for continued examination (RCE) with fee[2] and submission in the form of an amendment (along with what are averred to be true copies of same), and Petitioner supports that allegation with what is averred to be a true copy of a date-stamped date-stamped ("MAY 27 2005") receipt card evidencing receipt by the Office of the timely reply.

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]

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[2] While the substantive papers are not in evidence, the Office record reflects payment of the RCE and extension fees.

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

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

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

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

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

It appears that Petitioner has satisfied the requirements of the regulation and the case law as discussed above.

CONCLUSION

Because Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, fees are waived and none have been charged; and the Notice of Abandonment of 26 January, 2006, hereby is **vacated**.

The instant matter is released to Technology Center 3600 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

---

[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).

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DEC 28 2004

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

In re Application of	:
Barton F. Haynes	: PETITION TO MAKE SPECIAL
Serial No.: 10/753,339	:
Filed: January 9, 2004	:
Attorney Docket No.: 1579-880	

This is in response to the petition filed October 27, 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, X. Therefor the petition is **GRANTED**.

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

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

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

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

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OFFICE OF PETITIONS

In re Application of :
Jin Yong Kim, et al. :
Application No.: 10/753,400 : ON PETITION
Filed: January 9, 2004 :
Attorney Docket No.: 1740-000037/US :

This is a decision on the petition, filed March 19, 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 30, 2008, 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 2627 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Jin Yong Kim, et al.	:	
Application No. 10/753,400	:	DECISION GRANTING PETITION
Filed: January 9, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1740-000037/US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 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 February 18, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2627 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
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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APR 18 2007

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of	:
Takashi Osumi et al	:
Serial No.: 10/753,405	: PETITION DECISION
Filed: January 9, 2004	:
Attorney Docket No.: 046124-5005-US03	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed January 12, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

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

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact 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.

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

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OFFICE OF PETITIONS

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

In re Application of :
Silverbrook : DECISION ON PETITION
Application No. 10/753,421 :
Filed: January 9, 2004 :
Docket No.: DAM12US :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 12, 2007.

The petition is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned August 9, 2006 for failure to timely submit a proper reply to the final Office action mailed May 8, 2006. Notice of Abandonment was mailed December 20, 2006.

Petitioner asserts that a response to the final Office action was timely submitted on July 5, 2006 and has provided as proof of mailing a copy of the reply.

A review of the application file does not reveal receipt of an RCE. A check in the amount of $790.00 was received July 10, 2006, however, no actual RCE was entered in the record as having been received.

Correspondence is considered as being timely filed if: (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being: (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be

mailed or transmitted on or before the date indicated. The date of receipt is used for all other purposes. *See*, 37 CFR 1.8(a).

The copy of the reply submitted herewith lacks a certificate of mailing in accordance with 37 CFR 1.8. Accordingly, it cannot be found that the RCE was timely submitted.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay in timely submitting a properly reply to the Notice was unintentional or unavoidable pursuant to 37 CFR 1.137(b) and (a) respectively. *See* MPEP 711.03(c).

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Ken-Ho Liu et al	:	
Application No. 10/753,435	:	DECISION GRANTING STATUS
Filed: January 9, 2004	:	UNDER 37 CFR 1.47(A)
For: AUTOMATIC TESTING SYSTEM	:	

This is in response to the petition under 37 CFR 1.47(a), filed March 31, 2004.

The petition is granted.

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

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in 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 Petitions Examiner WanLaymon at (703) 306-5685.

This application file is being referred to the Office of Initial Patent Examination for preexamination processing.

Frances Hicks

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

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ALEXANDRIA VA 22314

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DEC 0 8 2004

OFFICE OF PETITIONS

Applicant: Thiers et al.
Appl. No.: 10/753,453
Filing Date: January 9, 2004
Title: FLOOR COVERING, FLOOR PANEL AND SET OF FLOOR PANELS FOR FORMING SUCH FLOOR COVERING, AND METHODS FOR THE PACKAGING AND MANUFACTURING OF SUCH FLOOR PANELS
Pub. No.: US 2004/0159066 A1
Pub. Date: August 19, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on October 20, 2004 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because published application includes the specification, claims and abstract from the translation of provisional application filed in response to the missing parts and not the specification, claims and drawings of the application.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable."

The request for corrected publication received on October 20, 2004, was not timely filed under 37 CFR 1.221(b).

Due to the nature of the errors in this publication, the Office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Bernard Paul Joseph Thiers	: DECISION ON REQUEST FOR
Patent Number	: 7591116	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/753,453	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **426** 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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BACON & THOMAS, PLLC
625 SLATERS LANE
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ALEXANDRIA, VA 22314-1176

Mail Date: 05/18/2010

Applicant : Bernard Paul Joseph Thiers
Patent Number : 7591116
Issue Date : 09/22/2009
Application No : 10/753,453
Filed : 01/09/2004

: 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 **459** 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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Sterne, Kessler, Goldstein & Fox PLLC
1100 New York Avenue, N.W.
Washington DC 20005

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of

Yasuo Fujimoto
Application No. 10/753,463
Filed: January 9, 2004
Attorney Docket No. 2244.0160000

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 7, 2006.

The request is **APPROVED**.

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

The request was signed by Linda E. Horner.

Linda E. Horner 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 19, 2006 that requires a reply from the attorneys or agents of record.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,517	01/08/2004	Mark John Anderson	ROC920030318US1	9859

46296 7590 01/11/2010
MARTIN & ASSOCIATES, LLC
P.O. BOX 548
CARTHAGE, MO 64836-0548

EXAMINER
KIM, PAUL

ART UNIT	PAPER NUMBER
2169	

MAIL DATE	DELIVERY MODE
01/11/2010	PAPER

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

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

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Derek P. Martin
MARTIN & ASSOCIATES, L.L.C.
P.O. Box 548
Carthage, MO 64836-0548

In re Application of:	)	
Mark J. ANDERSON	)	
Application No. 10/753,517	)	
Filed: January 08, 2004	)	
For: APPARATUS AND METHOD FOR ENABLING PARALLEL PROCESSING OF A COMPUTER PROGRAM USING EXISTING DATABASE PARALELISM	)	**DECISION ON PETITION**

This is a decision on the petition, filed on 02 October 2009, under 37 CFR § 1.198 to address the reopening of prosecution after the Board's decision rendered on 06 May 2009.

The petition is **GRANTED**.

MPEP § 1214.04 states, in part:

> ... If the examiner has specific knowledge of the existence of a particular reference or references which indicate nonpatentability of any of the appealed claims as to which the examiner was reversed, **he or she should submit the matter to the Technology Center (TC) Director for authorization to reopen prosecution under 37 CFR 1.198 for the purpose of entering the new rejection**. See MPEP § 1002.02(c) and MPEP § 1214.07. The **TC Director's approval is placed on the action reopening prosecution**... [Emphasis added].

A review of the non-final Office Action mailed on 04 August 2009 indicates that the examiner did not submit this non-final Office Action to the TC Director for authorization to reopen prosecution.

Pursuant to MPEP § 1214.04, the Office Action of 04 August 2009 is hereby withdrawn and vacated. It is ordered the examiner to seek such an authorization to reopen prosecution under 37 CFR 1.198 for the purpose of entering the new rejection.

For the above stated reason, the petition is **GRANTED**.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Wendy R. Garber, Director
Technology Center 2100
Computer Architecture and Software

United States
Patent And
Trademark Office

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

PETITION DECISION

03/14/05

Adams Evans P.A.
2180 Two Wachovia Center
Charlotte NC 28282

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/753551 received on 02/09/04 by the U. S. Patent and Trademark Office has been made apart of the application.

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

08/16/04

Erik J. Overberger
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue, 7th Floor
Cleveland, Oh 44114-2579

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/753578 received on 07/20/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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FAY SHARPE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND OH 44114

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FEB 05 2008

OFFICE OF PETITIONS

In re Application of	:	
Sommers et al.	:	DECISION ON PETITION
Application Number: 10/753580	:	TO WITHDRAW HOLDING OF
Filing Date: 01/08/2004	:	ABANDONMENT
Attorney Docket Number: GLOZ 2	:	
00153 (#133821)	:	

This is a decision on the petition, filed on January 9, 2008, to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on May 17, 2007. A Notice of Abandonment was mailed on December 12, 2007.

Petitioners assert that a proper response was in fact timely filed in the form of an amendment in response to the non-final Office action. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of the response to the Office action dated May 17, 2007 on August 20, 2007. Additionally, petitioners have submitted a copy of the amendment with the present petition.

Petitioners' response to the Office action mailed on May 17, 2007, is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the amendment and request for a three (3) month extension of time was received in the Office but was not matched with the application file.

The date-stamp on the post card of August 20, 2007, is after the due date for the response. However, 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 amendment filed with the present petition bears a proper certificate of mailing, dated August 17, 2007, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be referred to the Technology Center's technical support staff for entry of the response. Thereafter, the application file will be referred to the examiner for action in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No.

AMGEN, INC.
U.S. Patent Operations/RLS
Dept. 4300, M/S 27-4-A
One Amgen Center Drive
Thousand Oaks CA 91320-1799

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MAY 1 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Hu	:	DECISION ON APPLICATION
Application No. 10/753,592	:	FOR
Filed: January 7, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. A-357D	:	

This is a decision on the "REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b)," filed February 14, 2008. Pursuant to their duty of good faith and candor to the Office, applicant discloses that the initial determination of patent term adjustment under 35 U.S.C. 154(b) should be four hundred seventy-two (472), four hundred seventy-three (473) days.

The request for correction of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **four hundred seventy-two (472)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 15, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 473 days. Applicant discloses that their response to the Office action mailed September 18, 2006 was deposited in the Express Mail service of the USPS on March 16, 2007, not March 15, 2007 as shown in the patent term adjustment history. Applicant discloses that the period of reduction for applicant delay in filing this response is 88 days, not 87 days.

Applicant is correct. The response is of record in the image file wrapper for this application with a date of receipt of March 16, 2007. Accordingly, the correct period of reduction is 88 days, counting the number of days in the period beginning on December 19, 2006, the day after the date that is three months after the date of mailing of the rejection, and ending on the date the reply was filed, March 16, 2007.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 472 days.

As this letter was submitted as an advisement to the Office of an error in applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

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

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Monday
Date: 5/12/2008

PALM INTRANET

Time: 14:57:44

PTA Calculations for Application: 10/753592			
Application Filing Date:	01/07/2004	PTO Delay (PTO):	560
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	87
Post-Issue Petitions:	0	Total PTA (days):	472
PTO Delay Adjustment:	-1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
93	05/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		88	
92	05/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	87		
75	11/15/2007	MAIL NOTICE OF ALLOWANCE			
74	11/13/2007	ISSUE REVISION COMPLETED			
73	11/13/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
72	11/13/2007	DOCUMENT VERIFICATION			
71	11/13/2007	NOTICE OF ALLOWABILITY			
70	10/30/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
69	10/30/2007	REFERENCE CAPTURE ON IDS			
68	10/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	11/09/2007	DATE FORWARDED TO EXAMINER			
66	10/30/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
65	11/09/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
64	10/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	10/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
62	09/28/2007	SEQUENCE FORWARDED TO PUBS ON TAPE			
61	09/21/2007	EXPORT TO INITIAL DATA CAPTURE			
60	09/18/2007	MAIL NOTICE OF ALLOWANCE			
59	09/14/2007	ISSUE REVISION COMPLETED			
58	09/14/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
57	09/14/2007	DOCUMENT VERIFICATION			

56	09/14/2007	NOTICE OF ALLOWABILITY			
55	08/15/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	08/15/2007	REFERENCE CAPTURE ON IDS			
53	08/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	08/22/2007	DATE FORWARDED TO EXAMINER			
51	08/15/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
50	08/22/2007	DATE FORWARDED TO EXAMINER			
49	08/15/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
48	08/22/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
47	08/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	08/15/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
45	06/20/2007	FINISHED INITIAL DATA CAPTURE			
44	05/10/2007	SEQUENCE FORWARDED TO PUBS ON TAPE			
43	05/21/2007	EXPORT TO INITIAL DATA CAPTURE			
42	05/18/2007	MAIL NOTICE OF ALLOWANCE			
41	05/17/2007	ISSUE REVISION COMPLETED			
40	05/17/2007	DOCUMENT VERIFICATION			
39	05/17/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	05/17/2007	CASE DOCKETED TO EXAMINER IN GAU			
37	04/30/2007	NOTICE OF ALLOWABILITY			
36	03/30/2007	PARALEGAL TD ACCEPTED			
35	03/30/2007	PARALEGAL TD ACCEPTED			
34	03/30/2007	PARALEGAL TD ACCEPTED			
33	03/30/2007	PARALEGAL TD ACCEPTED			
32	03/30/2007	PARALEGAL TD ACCEPTED			
31	03/15/2007	TERMINAL DISCLAIMER FILED		0	25
30	03/15/2007	TERMINAL DISCLAIMER FILED			
29	03/15/2007	TERMINAL DISCLAIMER FILED			
28	03/15/2007	TERMINAL DISCLAIMER FILED			
27	03/15/2007	TERMINAL DISCLAIMER FILED			
26	03/29/2007	DATE FORWARDED TO EXAMINER			
25	03/15/2007	RESPONSE AFTER NON-FINAL ACTION		87	23

24	03/15/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	09/18/2006	MAIL NON-FINAL REJECTION	560		-1
22	09/14/2006	NON-FINAL REJECTION			
21	01/07/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	05/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	01/07/2004	PRELIMINARY AMENDMENT			
17	05/07/2004	REFERENCE CAPTURE ON IDS			
16.7	01/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	01/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	05/07/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	03/24/2004	APPLICATION RETURN FROM OIPE			
13	03/24/2004	APPLICATION RETURN TO OIPE			
12	03/24/2004	APPLICATION RETURN FROM OIPE			
11	03/25/2004	APPLICATION IS NOW COMPLETE			
10	03/24/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
9	03/24/2004	APPLICATION RETURN TO OIPE			
8	03/24/2004	APPLICATION DISPATCHED FROM OIPE			
7	03/24/2004	APPLICATION IS NOW COMPLETE			
6	03/01/2004	CLEARED BY OIPE CSR			
5	03/01/2004	CASE CLASSIFIED BY OIPE			
4	01/30/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	01/26/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	01/07/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	01/07/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PETITION DECISION

08/16/04

Erik J. Overberger
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue, 7th Floor
Cleveland, Oh 44114-2579

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/753606 received on 07/20/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 05/03/2010

Applicant	: Robert L. Fair	: DECISION ON REQUEST FOR
Patent Number	: 7631148	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/753,608	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **350** 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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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: HARUMA, et al.
Application No. 10/753,623
Filed: January 7, 2004
For: HIGH-SPEED SNAPSHOT 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 25 April 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new

application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 25 April 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to point out how each reference defines over each independent claim. Some of the limitations purported to distinguish independent claims 2, 3, 14, 15, and 16 from the references are not in these claims. Some examples are set forth below.
-Claim 2 does not require "detection of data in an area where data is *highly likely* to be written to *next*" (emphasis added).
-Claims 3, 14, 15, and 16 do not require that the "host equipment" copy data. Rather, the "snapshot controller" copies in claim 3, the "switch" copies in claim 14, the "storage system" copies in claim 15, and the "system" copies in claim 16.
Also, regarding claim 16, the identical statement, that the reference fails to describe or suggest essentially the entirety of independent claim 16, is presented for each of the six references deemed "most closely related". However, this is not a sufficient detailed description. Petitioner should ensure that the above discussion is directed to how the language of each of the independent claims is specifically distinguishable and patentable from each of the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

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

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

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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Technology Center 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: HARUMA, et al.
Application No. 10/753,623
Filed: January 7, 2004
For: HIGH-SPEED SNAPSHOT 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 25 August 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 25 April 2005. The petition was dismissed for failure to provide a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicants' submission filed 25 August 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
James Johnson, et al. :
Application No. 10/753,626 : ON PETITION
Filed: January 8, 2004 :
Attorney Docket No. 02-283 :

This is a decision in response to the petition, filed May 31, 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 June 20, 2005. A Notice of Abandonment was mailed on February 16, 2006.

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

The application is being referred to Technology Center AU 3682 for consideration of the amendment filed May 31, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/29/06

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/753631** Patent No.: **6937644**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: At column 2, line 19 and column 6, line 43, the changes from "r." to --I-- should be --I.--. At column 3, line 28, "dkN_3" should be --dkN_5--. At column 4, lines 9 and 57, column 5, line 16, and column 7, lines 6, 7, 31, 32, 58 and 59, no correction is needed since all the changes are already corrected. At column 4, line 44, "$N_3 \cdot Q$" should be --$N_5 \cdot Q$--.

SPE

2611
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DIW Nov-05

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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OFFICE OF PETITIONS

In re Application of	:	
Davidson et al.	:	
Application No. 10/753,646	:	DECISION ON PETITION
Filed: 8 January, 2004	:	
Atty Docket No. 5940.US.C3	:	

This is a decision on the petition filed on 21 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 19 April, 2005, for failure to timely respond to the Office action requiring restriction and/or election, which set a one (1) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 29 September, 2005.

Petitioner has filed an election as the response to the restriction requirement.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

This application is being referred to Technology Center Art Unit 1656 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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www.uspto.gov

Allan L. Harms
6001 Charter Oak Lane S.E.
Cedar Rapids IA 52403

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FEB 09 2006
OFFICE OF PETITIONS

Applicant: Horn
Appl. No.: 10/753,647
Filing Date: January 8, 2004
Title: ARCHERY BOW STAND
Pub. No.: US 2005/0150484 A1
Pub. Date: July 14, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on December 19, 2005, for the above-identified application

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a material error, as the wrong correspondence address is on the front page of the publication.

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

The request for corrected publication received on December 19, 2005, was not timely filed under 37 CFR 1.221(b).

The error in the correspondence address is not a material mistake as required by 37 CFR 1.221(b). The error in the correspondence address does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

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

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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July 12, 2004

In re Application of	:	
Toshihiro Kobayashi, et al.	:	
Serial Number : 10/753,648	:	WITHDRAWAL
Filed : January 08, 2004	:	FROM
For : PRESSURE FRYER	:	ISSUE

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.

Jacqueline M. Stone

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

Burr & Brown
PO Box 7068
Syracuse, NY 13261-7068

cc:Allowed Files, Pk3-915

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HICKMAN PALERMO TRUONG & BECKER, LLP
1600 WILLOW STREET
SAN JOSE, CA 95125

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SEP 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Lupoi, et al. :
Application No.10/753,655 :
Filed: January 7, 2004 :
Attorney Docket No. 600920012 :

DECISION GRANTING PETITION

This is a decision on petition filed May 4, 2004, requesting that the above-identified application retain the presently accorded a filing date of January 7, 2004, with pages 80, 82, 89, and 90 of the specification as part of the original disclosure.

On January 7, 2004, the above-identified application was filed. On April 20, 2004, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of January 7, 2004, however, pages 80, 82, 89, and 90 of the specification appeared to have been omitted. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on May 4, 2004, applicants filed the instant petition along with a copy of the Office date-stamped postcard acknowledging receipt of 94 pages of the specification January 7, 2004, and a copy of the allegedly omitted pages.

Upon review of the record, pages 80, 82, 89, and 90 of the specification have not been located among the application papers. However, the evidence is convincing that the application papers deposited January 27, 2004, included pages 80, 82, 89, and 90 of the specification that were subsequently misplaced by the Office. Therefore, the application, including pages 80, 82, 89, and 90 of the specification, were complete on filing and entitled to the presently accorded filing date of January 7, 2004.

Accordingly, the petition is granted; the language in the Notice relative to the omitted figure is vacated, accordingly. The petition fee of $130.00 will be refunded in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of January 7, 2004, using the 94 pages of specification filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 9/1/04

2 Serial/Patent # 10/753,655

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	—	5/4/04	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

X Treasury Check

Credit Deposit A/C #:

9 50--1302

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Office Error.

11 REFUND REQUESTED BY:

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

SIGNATURE: Kenya A. McLaughlin PHONE: 305-0276

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Tillis DATE: 9/2/04

Repln. Ref: 0302 2004 AKELLEY 00075855
DA#:501302 Number:10753655
FC: 9204 $130.00

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

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT CURFISS
P O BOX 3171
HOUSTON, TX 77253-3171

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AUG 25 2006

OFFICE OF PETITIONS

In re Application of	:
David A. Monroe	:
Application No. 10/753,658	: DECISION GRANTING PETITION
Filed: January 8, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 121817.001.084	:

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 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 April 20, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. A five month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on November 21, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of April 20, 2004 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.

As authorized, the $1,500 petition fee 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 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 documentation must be submitted. While a courtesy copy of this decision is being mailed to the person signing this petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

It is noted that the specification submitted with the petition does not contain a brief description of the drawings. Accordingly, the Office of Initial Patent Examination should mail out a Notice requiring a brief description of the drawings in the specification and for any other informalities noted in the reply.

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

This matter is being referred to the Office of Initial Patent Examination for appropriate action in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Raffi Gostanian
808 Travis, Suite 904
Houston, TX 77002

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JON W. HALLMAN
MACPHERSON KWOK CHEN & HEID
SUITE 226
1762 TECHNOLOGY DRIVE
SAN JOSE, CA 95110

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APR 25 2005

OFFICE OF PETITIONS

In re Application of
I-Sheng Liu et al
Application No. 10/753,673
Filed: January 7, 2004
Attorney Docket No. M-15281 US

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.137(b) AND
:NOTICE RESETTING PERIOD FOR
:REPLY TO NONFINAL OFFICE
:ACTION

This is a decision on the petition, filed March 25, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark 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 is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on January 3, 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 USPTO of the filing of a counterpart application in a foreign country or under a multinational treaty that requires publication of applications eighteen 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 Office 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 previously rescinded.

There is no indication that a reply to the non-final Office action of February 25, 2005 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the non-final Office action of February 25, 2005 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

After this decision is mailed, petitioner's deposit account No. 50-2257, will be charged the required $750 petition fee.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This application is being forwarded to Technology Center Art Unit 2826 to await a reply to the non-final Office action, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

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

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No.

Honeywell International, Inc.
Law Dept. AB2
P.O. Box 2245
Morristown NJ 07962-9806

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AUG 14 2008

OFFICE OF PETITIONS

In re Application of Alexander S. Kozlov, Derek Raybould, Siu-Ching D. Lui, and Thomas E. Strangman Application No. 10/753,675 Filed: January 7, 2004 Attorney Docket No. H0005756-1060 Title: PLATINUM ALUMINIDE COATING AND METHOD THEREOF	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.47(A)

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a), filed June 18, 2008.

This petition pursuant to Rule 1.47(a) is **DISMISSED**.

On January 7, 2004, the application was filed, identifying Alexander S. Kozlov, Derek Raybould, Siu-Ching D. Lui, and Thomas E. Strangman as joint inventors. The application was deposited without a fully-executed declaration: the word "deceased" was written on the signature block that is associated with Mr. Kozlov. It appears that this was not picked up by the Office on initial deposit, and the need for a fully executed declaration was first set forth in the Notice of Allowance and Issue Fee Due that was mailed on March 18, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(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 C.F.R. § 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, and;

(5) a declaration which complies with 37 C.F.R. § 1.63.

With this petition, Petitioner has asserted that the non-signing inventor is deceased and that the legal representative of the non-signing joint inventor is unavailable. **This petition is being construed to contain a statement setting forth that the legal representative has refused to execute the declaration.** Petitioner has further submitted, *inter alia*, copies of letters, two declarations of fact, and the last-known address of the legal representative of the non-signing joint inventor.

Petitioner has met requirements (1) - (3) of 37 C.F.R. § 1.47(a).

Regarding the second requirement of Rule 1.47(a), the surcharge that is required due to the fact that this petition was not submitted on filing has been charged to Petitioner's Deposit Account.

Regarding the fourth requirement of Rule 1.47(a), **it does not appear that a complete copy of the application was sent to the last-known address of the legal representative.** It is clear that two packages were sent to the legal representative, and it appears that a complete copy of the application was not included in the same[1]. Where a refusal of a legal representative to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the

1 See Kwacala declaration of facts, paragraph 5 and Cantore declaration of facts, paragraph 2.

specification, claims, drawings, and oath or declaration[2]. As no mention has been made of any presentation of a complete copy of the application to the legal representative, the fourth requirement has not been met.

It follows that since it has not been shown that a complete copy of the application was sent to the legal representative, one cannot refuse to sign something which one has not seen. A refusal by a legal representative to sign an oath or declaration when the individual has not been presented with the application papers does not itself suggest that he/she is refusing to join the application unless it is clear that he/she understands exactly what he/she is being asked to sign and refuses to accept the application papers.

It is reasonable to require that the legal representative be presented with the application papers before a petition under Rule 1.47 is granted since such a procedure ensures that she is apprised of the application to which the declaration is directed[3].

Before filing the renewed petition, **Petitioner should mail a complete copy of the application to the legal representative, and provide her with a reasonable period of time to respond.** Petitioner should note that any statement that pertains to the presentation should be made by one having firsthand knowledge of the event. Statements based on hearsay are not normally accepted.

Regarding the fifth requirement of Rule 1.47(a), the declaration that was submitted on initial deposit cannot be accepted, as it **fails to comply with 37 C.F.R. § 1.64(b)** - the declaration fails to:

- contain the name of the legal representative;
- state that she is a legal representative, and;
- list her citizenship, residence, and mailing address.

Petitioner will note that any declaration that is prepared in response to this decision should clearly indicate that the non-signing inventor is deceased.

Any renewed petition 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.

---

2 See MPEP § 409.03(d).
3 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

§ 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, and may be submitted by mail[4], hand-delivery[5], or facsimile[6]. Registered 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.

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[8]. All other inquiries concerning

---

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.
6 (571) 273-8300- please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 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).

examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Ingrassia Fisher & Lorenz, P.C.
7010 East Cochise Road
Scottsdale, AZ 85253

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

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Law Dept. AB2
P.O. Box 2245
Morristown NJ 07962-9806

In re Application of Alexander S. Kozlov, Derek Raybould, Siu-Ching D. Lui, and Thomas E. Strangman Application No. 10/753,675 Filed: January 7, 2004 Attorney Docket No. H0005756-1060 Title: PLATINUM ALUMINIDE COATING AND METHOD THEREOF	DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.47(A)

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed October 14, 2008.

This renewed petition pursuant to Rule 1.47(a) is **DISMISSED.**

On January 7, 2004, the application was filed, identifying Alexander S. Kozlov, Derek Raybould, Siu-Ching D. Lui, and Thomas E. Strangman as joint inventors. The application was deposited without a fully-executed declaration: the word "deceased" was written on the signature block that is associated with Mr. Kozlov. It appears that this was not picked up by the Office on initial deposit, and the need for a fully executed declaration was first set forth in the Notice of Allowance and Issue Fee Due that was mailed on March 18, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(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 C.F.R. § 1.16(f);

(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, and;

(5) a declaration which complies with 37 C.F.R. § 1.63.

An original petition pursuant to 37 C.F.R. § 1.47(a) was filed on June 18, 2008, where Petitioner asserted that the non-signing inventor is deceased and that the legal representative of the non-signing joint inventor is unavailable. The petition included, *inter alia*, copies of letters, two declarations of facts, and the last-known address of the legal representative of the non-signing joint inventor.

The original petition was dismissed via the mailing of a decision on August 14, 2008. The decision indicated that the petition was construed to contain a statement setting forth that the legal representative has refused to execute the declaration, and that requirements (1) - (3) of 37 C.F.R. § 1.47(a) had been satisfied. The decision further indicated that an acceptable declaration would need to be provided.

With this renewed petition, Petitioner has included, *inter alia*, two statements of fact, two e-mails from FedEx®, and a declaration that complies with 37 C.F.R. § 1.64(b). As such, requirement (5) of 37 C.F.R. § 1.47(a) has been satisfied.

To date, Petitioner has met requirements (1) - (3) and (5) of 37 C.F.R. § 1.47(a). Petitioner has <u>not</u> met requirement (4), as will now be pointed out.

Regarding the fourth requirement of Rule 1.47(a), the original petition contained an assertion that the legal representative of the non-signing joint inventor is unavailable, and as such, the

decision on the original petition indicated that a complete copy of the application would need to be sent to the last-known address of the legal representative.

With this renewed petition, the situation has changed: Petitioner has now asserted that the legal representative of the non-signing joint inventor cannot be located.[1]

Petitioner will note that on the second page of the decision on the original petition, it was indicated that if it is asserted that a non-singing inventor (or in this case, the legal representative thereof) cannot be found or reached, a grantable petition pursuant to 37 C.F.R. § 1.47(a) requires proof that a diligent effort was made to locate this individual.

Due to the fact that Petitioner has now set forth that the legal representative of the non-signing joint inventor *cannot be found or reached, Petitioner is required to establish that a diligent effort was made to locate* the legal representative of the non-signing joint inventor. **The petition is silent as to any search that might have been performed for the legal representative of the non-signing joint inventor.** There is no indication that the Rule 47 applicant attempted to verify her address or to determine her forwarding address, and to send the complete application papers to that address for consideration by the legal representative of the non-signing joint inventor.[2] Petitioner must provide a showing detailing the attempts that were made to obtain a forwarding address or to locate the legal representative of the non-signing joint inventor by means such as through E-mail, telephone, and the Internet. If this search is sufficiently broad so as to provide a reasonable chance at locating this individual, and it is then averred that such attempts failed, then Petitioner will have provided the necessary proof required under 37 C.F.R. § 1.47 that the legal representative of the non-signing joint inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Any renewed petition must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R.

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1 Petition, page 2. See also Kwacala declaration of facts, paragraphs 4 and 6, Hale declaration of facts, paragraph 3, and accompanying e-mails from FedEx®.
2 See MPEP §409.03(d).

§ 1.47(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The second 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.

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.[7] All other inquiries concerning

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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
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).

examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Ingrassia Fisher & Lorenz, P.C.
7010 East Cochise Road
Scottsdale, AZ 85253

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

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JUN 16 2009

OFFICE OF PETITIONS

HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

In re Application of Alexander S. Kozlov, Derek Raybould, Siu-Ching D. Lui, and Thomas E. Strangman Application No. 10/753,675 Filed: January 7, 2004 Attorney Docket No. H0005756-1060 Title: PLATINUM ALUMINIDE COATING AND METHOD THEREOF	DECISION ON SECOND RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.47(A) AND PETITION PURSUANT TO 37 C.F.R. § 1.181

This is in response to the second renewed petition pursuant to 37 C.F.R. § 1.47(a), filed April 3, 2009. This is also a decision on the concurrently filed petition pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

Receipt of the concurrently submitted three-month extension of time is acknowledged.

On January 7, 2004, the application was filed, identifying Alexander S. Kozlov, Derek Raybould, Siu-Ching D. Lui, and Thomas E. Strangman as joint inventors. The application was deposited without a fully-executed declaration: the word "deceased" was written on the signature block that is associated with Mr. Kozlov. It appears that this was not picked up by the Office on initial deposit, and the need for a fully executed declaration was first set forth in the Notice of Allowance and Issue Fee Due that was mailed on March 18, 2008.

An original petition pursuant to 37 C.F.R. § 1.47(a) was filed on June 18, 2008, and was dismissed via the mailing of a decision on August 14, 2008.

A renewed petition was filed on October 14, 2008, and was dismissed via the mailing of a decision on November 7, 2008, which indicated that requirements (1) - (3) and (5) of Rule 1.47(a) had been satisfied, and that the second requirement is not applicable, as the original petition had been included on filing.

The decision on the renewed petition set a two-month extendable period for response.

On January 22, 2009, the Office mailed a notice of abandonment, indicating that the application had gone abandoned for failure to respond to the decision on the petition.

With this petition pursuant to 37 C.F.R. § 1.181(a), Petitioner has indicated that extensions of time were available, and as such, she was in a position to purchase extensions of time.

As indicted above, a second renewed petition under 37 C.F.R. § 1.47(a) was filed concurrently with this petition, along with a three-month extension of time so as to make timely this response to the decision on the renewed petition.

Petitioner's argument has been considered, and it has been deemed to be persuasive. Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

With this second renewed petition pursuant to 37 C.F.R. § 1.47(a), Petitioner has included an acceptable declaration that has been executed by the legal representative of non-signing (deceased) joint inventor Kozlov.

As such, this second renewed petition pursuant to 37 C.F.R. § 1.47(a) is **DISMISSED AS MOOT**.

In view of the joinder of the legal representative of the joint inventor, further consideration under 37 C.F.R. § 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. **This application need not be returned to this Office for further consideration under 37 C.F.R. § 1.47(a).**

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Paul Shanoski
Senior Attorney
Office of Petitions

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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 any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HONEYWELL/IFL
Patent Services
101 Columbia Road
P.O.Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Alexander S. Kozlov	: DECISION ON REQUEST FOR
Patent Number	: 7604726	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/753,675	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **891** 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

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MAY 3 1 2005

Technology Center 2100

Carr & Ferrell, LLP
2200 Geng Road
Palo Alto, California 94303

In re Application of: Joseph Salesky et al. Application No. 10/753,702 Filed: January 7, 2004 For: REAL-TIME, MULTI-POINT, MULTI-SPEED, MULTI-STREAM SCALABLE COMPUTER NETWORK COMMUNICATIONS SYSTEM	))))))))	DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed January 14, 2005, requesting to make the above-identified application special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(h) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) 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) 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 prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

Applicants' submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3599

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Donald F. Haas
Shell Oil Company
Legal - Intellectual Propery
P.O. Box 2463
Houston, TX 77252-2463

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of :
Fenouil et al. :
Application No. 10/753,714 :
Filed: January 8, 2004 : ON PETITION
Attorney Docket No. TS0874 (US) :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed on October 21, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior filed provisional application, number 60/441,570, filed January 21, 2003.

This Petition is hereby **dismissed as moot**.

In the instant case, the Office recognized the claim for benefit of prior filed provisional application, number 60/441,570, which claim appeared on the Utility Patent Application Transmittal filed with the above-identified application on January 8, 2004. Further, Office records indicate, as confirmed by the copy of Applicant's Replacement Filing Receipt mailed with the instant petition, that the Office recognized Applicant's domestic priority claim to provisional application number 60/441,570, filed January 21, 2003. In view thereof, a petition under 37 CFR 1.78(a)(6) is unnecessary.

No fee has been charged and none is due.

This application is being referred to Technology Center Art Unit 1754 for processing of the Amendment filed with the instant petition on October 21, 2004, and for consideration of the claims under 35 USC 119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior filed provisional application, number 60/441,570, filed January 21, 2003.

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

Charles Pearson
Director
Office of Petitions

Enclosure: Replacement Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 01 2009

OFFICE OF PETITIONS

KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW SUITE 200
WASHINGTON DC 20007-5118

In re Application of	:	
Stedron, et al.	:	
Application No. 10/753,753	:	DECISION ON PETITION
Filed: January 8, 2004	:	
Attorney Docket No. 335933-00019	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 13, 2009.

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 November 14, 2008. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on July 13, 2009, stating that no reply had been received.

A review of the application file reveals the presence of an Amendment, filed on May 14, 2009, made timely by obtaining a three month extension of time. A review of Office finance records confirms that the Office received the fee for the three month extension of time on that same day. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

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

The matter is being forwarded to Group Art Unit 2432 for consideration of the Amendment, timely filed with a three month extension of time on May 14, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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MAY 20 2010

OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,611,742	:	DECISION ON REQUEST FOR
Calvert, Jr.	:	RECONSIDERATION OF
Issue Date: November 3, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/753,766	:	NOTICE OF INTENT TO ISSUE
Filed: January 8, 2004	:	CERTIFICATE OF CORRECTION
Attorney Docket No. 09402.0006	:	

This is a decision on the petition filed on January 4, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred twenty-two (1522) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **one thousand eleven (1011) days**.

Initially, a review of the record reveals that the period of adjustment of 268 days for Office delay in taking action in response to the notice of appeal filed February 1, 2008, is incorrect. The Office notes that there is no specified time frame for the Office to take action in response to the filing of a notice of appeal to avoid entry of a period of adjustment. The filing of a notice of appeal is not "an appeal taken under 35 U.S.C. 134" within the meaning of 1.702(a)(2). The phrase "the date on which" an "appeal was taken" in 35 U.S.C.

154(b)(1)(A)(ii) means the date on which an appeal brief in compliance with 35 U.S.C. 192 (and not a notice of appeal) was filed.

Pursuant to 37 CFR 1.703(a)(3), the period of adjustment under § 1.702(a) is the sum of the number of days in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

In this instance, the Office mailed a final Office action on August 3, 2007. On January 3, 2008, applicants filed a request for reconsideration of the final rejection. On January 25, 2008, the Office mailed an Advisory Action stating that the reply of January 3, 2008, failed to place the application in condition for allowance. On February 1, 2008, applicants filed a notice of appeal. On May 30, 2008, applicants filed an appeal brief. On June 12, 2008, the Office mailed a Notification of Non-Compliant Appeal Brief, stating that the brief was defective for failure to comply with one or more provisions of 37 CFR 41.37. On July 2, 2008, applicants filed a corrected appeal brief. On September 15, 2008, the Office mailed a Notification of Non-Compliant Appeal Brief. On November 14, 2008, applicants filed an amendment after appeal under 37 CFR 41.33(b). On December 10, 2008, the Office mailed an Advisory Action acknowledging the reply filed November 14, 2008, and providing an explanation of the status of the claims after entry. Additionally, the Advisory Action noted that the appeal brief submitted on July 2, 2008, was defective, and indicated that applicants must file an amended brief or other appropriate correction (see MPEP 1205.03) within an extendable period of one month or thirty days, whichever was longer, to avoid dismissal of the appeal. On February 6, 2009, applicants filed an amendment after appeal under 37 CFR 41.33(b). Thereafter, on June 25, 2009, the Office mailed a notice of allowance, indicating that the communication was responsive to the papers filed February 6, 2009.

Pursuant to 37 CFR 1.703(a)(3), the period of adjustment is 19 days (not 268 days), beginning on June 7, 2009, the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed, and ending on June 25,

2009, the date of mailing the notice of allowance. The period of adjustment of 268 days will be removed and a period of adjustment of 19 days will be entered. Accordingly, A delay is 662 days (643 + 19).

Patentees acknowledge 1030 days of delay under 37 CFR 1.702(b), 151 days of applicant delay, and a period of overlap between A delay and B delay. However, patentee incorrectly calculated B delay and the overlapping period.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(4)[1] provides that the period of adjustment of the term of a patent shall not include the period equal to the sum of the period of pendency consumed by appellate review under 35 U.S.C. 134, 141, 145, whether successful or unsuccessful (35 U.S.C. 154(b)(1)(B)(ii)).

The Office agrees with patentees that the "over three year period" is 1030 days. However, patentees failed to account for the filing of the notice of appeal on February 1, 2008. The Office reminds patentees that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 511 days, beginning on the date on which the notice of appeal was filed, February 1, 2008, and ending on the date of the mailing of the notice of allowance, June 25, 2009. Thus, B delay is 519 days (1030 - 511). Furthermore, the Office has determined that the overlapping period between A delay and B delay is 19 days.

---

[1] The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences. 37 CFR 1.703(b)(4).

Accordingly, the patent term adjustment is 1011 days (662 days of A delay + 519 days of B delay - 19 days of overlap - 151 days of applicant delay).

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

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand eleven (1011) days.**

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,611,742 B2

DATED: Nov. 3, 2009 **DRAFT**

INVENTOR(S): Calvert, Jr.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 879 days

Delete the phrase "by 879 days" and insert – by 1011 days--

Day : Wednesday

PALM INTRANET

Date: 5/19/2010
Time: 16:28:19

PTA Calculations for Application: 10/753766			
Application Filing Date:	01/08/2004	PTO Delay (PTO):	1030
Issue Date of Patent:	11/03/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	151
Post-Issue Petitions:	0	Total PTA (days):	1011
PTO Delay Adjustment:	132		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
85	05/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	381		
84	05/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	19		
83	05/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		268	
79.5	10/14/2009	PTA 36 MONTHS	119		
79	11/03/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
78	09/29/2009	EXPORT TO FINAL DATA CAPTURE			
77	09/28/2009	DISPATCH TO FDC			
76	09/28/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
75	09/21/2009	ISSUE FEE PAYMENT VERIFIED			
74	09/21/2009	ISSUE FEE PAYMENT RECEIVED			
73	08/17/2009	FINISHED INITIAL DATA CAPTURE			
72	07/01/2009	EXPORT TO INITIAL DATA CAPTURE			
71	06/25/2009	MAIL NOTICE OF ALLOWANCE	268		47
70	06/22/2009	ISSUE REVISION COMPLETED			
69	06/22/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
68	06/22/2009	DOCUMENT VERIFICATION			
67	06/22/2009	NOTICE OF ALLOWABILITY			
61	03/12/2009	DATE FORWARDED TO EXAMINER			
60	02/06/2009	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
57	12/10/2008	MAIL ADVISORY ACTION (PTOL - 303)			
56	11/29/2008	ADVISORY ACTION (PTOL-303)			
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1	01/08/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

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SEP 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Jerome	:	DECISION ON PETITION
Application No. 10/753,803	:	
Filed: January 7, 2004	:	
Docket No.: 7262-2	:	

This is a decision on the petition under 37 CFR 1.181 and the petition under 37 CFR 1.137(b), filed September 12, 2005, to revive the above-identified application.

This application became abandoned April 13, 2005 for failure to timely submit a proper reply to the non-final Office action mailed January 12, 2005. 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 August 17, 2005.

DECISION UNDER 37 CFR 1.181

Petitioner herein requests withdrawal of the holding of abandonment for the above-identified application. Petitioner argues that a proper response to the non-final Office action was filed February 16, 2005, but that the response bore the incorrect title and serial number.

A review of the February 16, 2005 submission reveals that it failed to include sufficient identifiers, such as application number, application title, or attorney docket number. Accordingly, the Office cannot find that errors contained in the submission of February 16, 2005 were minor in nature such as to warrant the withdrawal of the holding of abandonment.

Accordingly, the petition under 37 CFR 1.181 is **DISMISSED**.

DECISION UNDER 37 CFR 1.137(b)

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 3600 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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NEAL, GERBER, & EISENBERG
SUITE 2200
2 NORTH LASALLE STREET
CHICAGO IL 60602

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Siegel, Stephen B.	:	
Application No. 10/753,837	:	ON PETITION
Filed: January 7, 2004	:	
Attorney Docket No. 019587.01US3	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 25, 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.

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 $1080.00 extension of time fee submitted with the petition on May 25, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 1700 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

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NOV 17 2009

OFFICE OF PETITIONS

In re Patent No. 7,013,946	:	
Issue Date: March 21, 2006	:	
Application No. 10/753,843	:	NOTICE
Filed: January 8, 2004	:	
Attorney Docket No. 258819	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 17, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is not signed by a person having authority to act in the above-identified patent.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

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

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney or agent registered to practice before the U.S. Patent and Trademark Office or the assignee of the entire interest under 37 CFR 3.73(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: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: ALENA PEACH
DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

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OFFICE OF PETITIONS

In re Patent No. 7,013,946	:	
Issue Date: March 21, 2006	:	
Application No. 10/753,843	:	ON PETITION
Filed: January 8, 2004	:	
Attorney Docket No. 258819	:	

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

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

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

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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Paper No.

Fay Kaplun & Marcin, LLP
Suite 702
150 Broadway
New York, NY 10038

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DEC 3 0 2004

OFFICE OF PETITIONS

In re Application of
German Trabada, Russell Durgin and
Robert Sakal
Application No. 10/753,848
Filed: January 8, 2004
Title: ENDOLUMINAL ACCESS DEVICES
AND RELATED METHODS OF USE
Attorney Docket No. 10121/01301

DECISION REFUSING STATUS
UNDER 37 C.F.R. § 1.47(a)

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47(a) TO FILE APPLICATION WITHOUT EXECUTED DECLARATION OF JOINT INVENTORS," filed November 26, 2004 (certificate of mailing Monday, November 22, 2004).

The petition is **DISMISSED**.

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

The above-identified application was filed on January 8, 2004, without an executed oath or declaration. Accordingly, on April 21, 2004, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition (and petition fee[1]); the late surcharge under § 1.16(e); along with a declaration executed by inventors Durgin and Sakal on behalf of themselves and on behalf of non-signing inventor Trabada. This response was made timely by an accompanying petition (and fee) for extension of time for response within the fifth month.

---

[1] The petition fee has been charged to Deposit Account No. 50-1492, as authorized.

Applicants assert that status under § 1.47(a) is proper because joint inventor Trabada's refusal after diligent efforts afforded by the assignee to execute the Declaration and Assignment in this application.

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

Petitioner has not shown that inventor Trabada has refused to join in the application. Before a refusal can be alleged, applicants must demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The evidence only supports a conclusion that attempts to present the declaration, assignment and PCT power of attorney to inventor Trabada were made. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Thus, on renewed petition, applicants must establish that the entire application package, including specification, claims and drawings, was presented to non-signing inventor Trabada and he subsequently refused to sign. If they have not already been sent, a copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the inventor is represented by counsel, to the address of the non-signing inventor's attorney.

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

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

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Effective June 5, 2004, patent correspondence delivered by hand or delivery services, other than the USPS, to the Customer Window must be addressed as follows:

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop _____
Crystal Plaza Two, Lobby, Room IB03
Arlington, VA 22202

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Fay Kaplun & Marcin, LLP
Suite 702
150 Broadway
New York, NY 10038

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APR 19 2005

OFFICE OF PETITIONS

In re Application of German Trabada, Russell Durgin and Robert Sakal Application No. 10/753,848 Filed: January 8, 2004 Title: ENDOLUMINAL ACCESS DEVICES AND RELATED METHODS OF USE Attorney Docket No. 10121/01301	DECISION ACCORDING STATUS UNDER 37 C.F.R. § 1.47(a)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(a)," filed February 8, 2005.

The petition is **GRANTED**.

The above-identified application was filed on January 8, 2004, without an executed oath or declaration. In response to the "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," mailed April 21, 2004, applicants filed the initial petition under § 1.47(a).

By decision mailed December 30, 2004, the petition was dismissed for failure to provide adequate proof of the refusal of inventor Trabada to join in the application. The showing of refusal was not supported with a showing that there had been a bona fide attempt to present all of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d).

On renewed petition, petitioner established that the entire application package, including specification, claims and drawings, was presented to non-signing inventor Trabada and he subsequently refused to sign. Petitioner has now met all requirements for a grantable petition under § 1.47(a).

The petition and declaration filed November 26, 2004 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 will be forwarded to Technology Center 3731 for examination 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

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Alexandria, VA 22313-1450
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MR. GERMAN TRABADA
16892 S.W. 1st STREET
PEMBROKE PINES, FL 33027-1093

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APR 19 2005

OFFICE OF PETITIONS

In re Application of	:	
German Trabada, Russell Durgin and	:	
Robert Sakal	:	LETTER
Application No. 10/753,848	:	
Filed: January 8, 2004	:	
Title: ENDOLUMINAL ACCESS DEVICES	:	
AND RELATED METHODS OF USE	:	
Attorney Docket No. 10121/01301	:	

Dear Mr. Trabada:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be

directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Fay Kaplun & Marcin, LLP
Suite 702
150 Broadway
New York, NY 10038

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SUITE 702
150 BROADWAY
NEW YORK NY 10038

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MAR 23 2010

OFFICE OF PETITIONS

In re Application of	:	
TRABADA, German et al.	:	
Application No. 10/753,848	:	DECISION ON PETITION
Filed: January 08, 2004	:	TO WITHDRAW
Attorney Docket No. **10121/01301**	:	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

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C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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OFFICE OF PETITIONS

In re Application of	:	
Doan et al.	:	
Application No. 10/753,854	:	DECISION ON PETITION
Filed: January 8, 2004	:	
Attorney Docket No. AUS920030882US1	:	

This is a decision on the petition, filed January 29, 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 final Office action mailed June 27, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 14, 2008.

Petitioner asserts that the Office action dated June 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.

This application is being referred to the Technology Center technical support staff of Art Unit 2887 for re-mailing the Office action of June 27, 2007. The period for reply will run from the mailing date of the Office action.

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

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

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8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

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In re Application of	:	
Hideaki KATO et al.	:	
Application No. 10/753,870	:	ON PETITION
Filed: January 9, 2004	:	
Attorney Docket No. PTGF-03104	:	

This is a decision on the renewed petition under 37 CFR 1.181, filed March 11, 2005 and resubmitted July 7, 2005, requesting withdrawal of the Notice of Abandonment mailed January 12, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to Notice to File Missing Parts of Non-Provisional Application mailed April 21, 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 22, 2004.

Petitioner asserts the Notice of Abandonment mailed January 12, 2005 be withdrawn as petitioner never received either the Notice to File Missing Parts of Non-Provisional Application mailed April 21, 2004.

To support this assertion petitioner has submitted: (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; and (2) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. Accordingly, it is concluded that petitioner never received the Notice to File Missing Parts of Non-Provisional Application mailed April 21, 2004.

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

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 the Office of Initial Patent Examination for appropriate action commensurate in scope with the decision herein.

Brian Hearn
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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WAYNE C. JAESCHKE, JR.
MORRISON AND FOERSTER LLP
1650 TYSONS BLVD
SUITE 300
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Freeman, et al.	:	
Application No. 10/753,871	:	DECISION ON PETITION
Filed: January 9, 2004	:	TO WITHDRAW
Attorney Docket No. 544492000210	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 18, 2005 and February 1, 2005.

The request is **NOT APPROVED**.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the

assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JAMES REMENICK
POWELL GOLDSTEIN LLP
901 NEW YORK AVENUE, NW
THIRD FLOOR
WASHINGTON, DC 20011

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JAN 25 2005

Browdy and Neimark, P.L.L.C.
624 Ninth Street, NW
Suite 300
Washington, DC 20001-5303

In re Application of Alon Shalev et al Serial No. : 10/753,882 Filed : January 9, 2004 For : Method and Apparatus for Stimulating the Sphenopalatine Ganglion to Modify Properties of the BBB and Cerebral Blood Flow	DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is a decision on the petition filed May 13, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special on the basis of special examining procedure for certain new applications – accelerated examination as set forth in MPEP § 708.02, item VIII.

The requirement for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all 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.

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

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

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

ak/1/24/05

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JUN 16 2004

OFFICE OF THE DIRECTOR
TC 3600

JAMES RICHARDS
58 BONING ROAD
FAYETTEVILLE, TN 37334

In re application of	:	**DECISION ON PETITION**
James R. Younkin	:	**TO MAKE SPECIAL**
Application No. 10/753,884	:	**(APPLICANT'S AGE)**
Filed: January 07, 2004	:	

For: DUAL CHANNEL FAIL-SAFE SYSTEM AND METHOD FOR ADJUSTING AIRCRAFT TRIM

This is a decision on the petition submitted on January 07, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a declaration signed by Mr. Younkin 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: 05/26/04

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March 30, 2009

Richard J. Katz
Darby & Darby P.C.
P. O. Box 770
Church Street Station
New York, NY 10008-0770

Patent No.: 7,501,983 B2
Application No.: 10/753,885
Inventor(s): Jyrki Mikkola
Issued: March 10, 2009
Title: **PLANAR ANTENNA STRUCTURE AND RADIO DEVICE**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

In re Patent No. 7,501,983	:	
Issue Date: March 10, 2009	:	
Application No. 10/753,885	:	DECISION ON PETITION
Filed: January 7, 2004	:	
Attorney Docket No. 02709/0200717-US0	:	

This is a decision on the petition, filed, June 30, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Pulse Finland Oy. Petitioner further states that the assignee's name was not correctly identified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Pulse Finland Oy was the assignee of record before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

---

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

Inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

Chris Bottorff
Petitions Examiner
Office of Petitions

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JUN 30 2009

Docket No.: 01329/0200717-US0
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Jyrki Mikkola

Patent No.: 7,501,983

Issued: March 10, 2009

For: PLANAR ANTENNA STRUCTURE AND RADIO DEVICE

12/09/2009 CKHLUK 00000006 040100 7501983
01 FC:1808 130.00 DA
02 FC:1811 100.00 DA

PETITION UNDER 37 CFR 1.183 AND REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 CFR 1.322

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

The above-identified patent contains an error that arose from an incomplete or erroneous assignee name furnished in item 3 of PTOL-85B. Failure to include the correct assignee name on the PTOL-85B was inadvertent. The error is of a clerical or typographical nature, the correction of which does not constitute new matter or require reexamination.

In the Assignee:

Please insert -- Pulse Finland Oy --

Patentee respectfully requests that the Commissioner waive the requirements of 37 CFR 3.81 to permit the correct name of the assignee to be provided after issuance of the patent.

Enclosed is:

Adjustment Date: 12/09/2009 CKHLUK
03/24/2009 INTEFSW 00011310 040100 10753885
01 FC:1464 130.00 CR
02 FC:1811 100.00 CR

PAGE 3/11 * RCVD AT 6/30/2009 8:46:21 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/39 * DNIS:2738300 * CSID:212 753 6237 * DURATION (mm-ss):04-48

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Patent No.: 7,501,983 Docket No.: 01329/0200717-US0

(1) Evidence that the assignment was recorded before issuance of the patent;

(2) Processing fee set forth in 37 CFR 1.17(i);

(3) Fee set forth in 37 CFR 1.20(a); and

(4) Form PTO/SB/44.

Please charge our Deposit Account in the amount of $230.00 for the filing of this Petition and Request. The Commissioner is authorized to charge any deficiency of up to $300.00 or credit any excess in this fee to Deposit Account No. 04-0100.

Applicant respectfully requests that the petition be granted and that a Certificate of Correction be issued.

The Commissioner is authorized to charge any deficiency of up to $300.00 or credit any excess in this fee due with this submission to Deposit Account No. 04-0100.

Dated: March 24, 2009

Respectfully submitted,

By_____

Richard J. Katz
Registration No.: 47,698
DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
New York, New York 10008-0770
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant

PAGE 4/11 * RCVD AT 6/30/2009 8:46:21 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/39 * DNIS:2738300 * CSID:212 753 6237 * DURATION (mm-ss):04-48

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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

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OFFICE OF PETITIONS

In re Patent No. 7,391,378
Application No. 10/753,887
Filed: January 7, 2004
Issued: June 24, 2008
Attorney Docket No. 01329/0200718-US0

ON PETITION

This is a decision on the petition filed July 11, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to delete the names of two assignees on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAMES M. STOVER
TERADATA CORPORATION
2835 MIAMI VILLAGE DRIVE
MIAMISBURG, OH 45342

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OCT 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Borofsky et al.	:	
Application No. 10/753,900	:	DECISION ON PETITION
Filed: January 7, 2004	:	
Attorney Docket No. 11476	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before September 10, 2009, as required by the Notice of Allowance and Fee(s) Due mailed June 10, 2009. Accordingly, the application became abandoned on September 11, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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EDMUND J. WALSH
WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210

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OFFICE OF PETITIONS

In re Application of
Scott Gregory Bardsley et al.
Application No. 10/753,921
Filed: January 7, 2004
Attorney Docket No. A0312.70506US00

ON PETITION

This is a decision on the petition filed November 26, 2004 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 December 28, 2004 for failure to timely pay the issue fee on or before December 27, 2004. The instant petition and petitions decision precede the mailing of the Notice of Abandonment.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE SUITE 1210
NEW YORK NY 10176

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OFFICE OF PETITIONS

In re Application of
Axel Muller
Application No. 10/753,938
Filed: 01-08-2004
Attorney Docket No. 502901-162

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed December 26, 2006, to withdraw the holding of abandonment for the above-identified application.

On August 29, 2006, the Office mailed a Notice of Allowance and Fee(s) Due (Notice of Allowance), which set a three-month statutory period for reply. In the absence of a timely filed response, the application became abandoned on November 30, 2006. A Notice of Abandonment was mailed on December 28, 2006.

In the present petition, the practitioner stated that he did not receive the Notice of Allowance and requested that the Office withdraw the holding of abandonment, re-mail the Notice and restart the period for reply.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice of Allowance, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Allowance was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the

non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant the withdrawal of the holding of abandonment. The practitioner for applicant submitted copies of docket records where the Notice of Allowance would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the Notice of Allowance was not received. Accordingly, applicant presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 2838 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new Notice of Allowance. The three (3) month statutory time period for responding to the Notice of Allowance will be set to run from the mailing date of the new Notice of Allowance.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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OVERLAND PARK KS 66251-2100

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In re Application of	:	
Oh et al.	:	
Application No. 10/753,941	:	ON APPLICATION FOR
Filed: January 7, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 2428	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)-(d) filed November 24, 2008. Applicant requests that the determination of patent term adjustment be corrected from eight hundred thirty-seven (837) days to one thousand three hundred seventeen (1317) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met.

Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

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

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUN 13 2007

OFFICE OF PETITIONS

In re Application of :
Mark L. Yarkosky et al :
Application No. 10/753,942 : ON PETITION
Filed: January 7, 2004 :
Attorney Docket No. 2425

This is a decision on the petition, filed June 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 June 11, 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 2618 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).

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OFFICE OF PETITIONS

In re Application of	:	
Yarkosky et al.	:	
Application No. 10/753,942	:	LETTER REGARDING
Filed: January 7, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 2425	:	

This is in response to the "REQUEST TO CORRECT THE PATENT TERM ADJUSTMENT" filed July 25, 2007, notifying the Office of an error in Applicants' favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b). Applicants request that the initial patent term adjustment indicated in the Notice of Allowance be reduced from 609 days to 574 days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED to the extent indicated**.

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 FIVE HUNDRED SEVENTY-THREE **(573)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 16, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 609 days. Applicants disclose that the Office failed to enter a period of reduction, pursuant to 37 CFR 1.704(c)(10), of 35 days by the period between June 11, 2007 and July 16, 2007.

Applicants are correct. However, their calculation of the period of reduction is incorrect. Pursuant to §1.704(c)(10), a period of reduction of 36 days should have been entered. When a period is indicated (in 37 CFR 1.703 or 1.704) as "beginning" on a particular day, that day is included in the period, in that such day is "day one" of the period and not "day zero." For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length. See MPEP 2731. Accordingly, in this instance, the period is 36 days, not 35 days, as June 11, 2007 is day one, not day zero.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **FIVE HUNDRED SEVENTY-THREE (573)** days.

As this letter was submitted to advise the Office of an error in Applicants' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The Office of Patent Publication has been advised of this decision. The application is being forwarded to the Publications Division for issuance of a 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 PAIR Screen

Day : Saturday
Date: 9/15/2007

PALM INTRANET

Time: 13:14:25

PTA Calculations for Application: 10/753942			
Application Filing Date:	01/07/2004	PTO Delay (PTO):	609
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	573
PTO Delay Adjustment:	-36		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
55	09/15/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		36	
52	07/16/2007	MAIL NOTICE OF ALLOWANCE			
51	07/09/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	07/09/2007	ISSUE REVISION COMPLETED			
49	07/09/2007	DOCUMENT VERIFICATION			
48	07/09/2007	NOTICE OF ALLOWABILITY			
47	06/11/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	07/03/2007	DATE FORWARDED TO EXAMINER			
45	06/11/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
44	07/03/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
43	06/13/2007	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
42	06/11/2007	PETITION ENTERED			
41	06/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	06/11/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	06/11/2007	ISSUE FEE PAYMENT RECEIVED			
38	05/22/2007	FINISHED INITIAL DATA CAPTURE			
37	04/27/2007	EXPORT TO INITIAL DATA CAPTURE			
36	04/20/2007	MAIL NOTICE OF ALLOWANCE			
35	04/16/2007	ISSUE REVISION COMPLETED			
34	04/16/2007	DOCUMENT VERIFICATION			
33	04/16/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			

32	04/16/2007	NOTICE OF ALLOWABILITY			
31	02/05/2007	DATE FORWARDED TO EXAMINER			
30	01/31/2007	RESPONSE AFTER NON-FINAL ACTION			
29	11/06/2006	MAIL NON-FINAL REJECTION	609		-1
28	10/30/2006	NON-FINAL REJECTION			
27	04/12/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	07/31/2006	CASE DOCKETED TO EXAMINER IN GAU			
25	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	03/23/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	03/15/2004	INCOMING LETTER PERTAINING TO THE DRAWINGS			
22	03/23/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	09/10/2004	CORRESPONDENCE ADDRESS CHANGE			
20	04/12/2004	REFERENCE CAPTURE ON IDS			
19.7	04/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	04/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	04/22/2004	APPLICATION RETURN FROM OIPE			
17	04/22/2004	APPLICATION IS NOW COMPLETE			
16	04/22/2004	APPLICATION RETURN TO OIPE			
15	04/21/2004	APPLICATION RETURN FROM OIPE			
14	04/22/2004	APPLICATION IS NOW COMPLETE			
13	04/21/2004	APPLICATION RETURN TO OIPE			
12	04/21/2004	APPLICATION RETURN FROM OIPE			
11	04/21/2004	APPLICATION RETURN TO OIPE			
10	04/21/2004	APPLICATION RETURN FROM OIPE			
9	04/22/2004	APPLICATION IS NOW COMPLETE			
8	04/21/2004	APPLICATION RETURN TO OIPE			
7	04/21/2004	APPLICATION DISPATCHED FROM OIPE			
6	04/21/2004	APPLICATION IS NOW COMPLETE			
5	01/07/2004	PGPUBS NONPUB REQUEST			
4	03/01/2004	CLEARED BY OIPE CSR			
3	03/01/2004	CASE CLASSIFIED BY OIPE			
2	01/24/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/07/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of :
LOCHTEFELD, Thomas J. :
Application No. 10/753,978 : DECISION GRANTING PETITION
Filed: January 7, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **LOCHT.117C1** :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 18, 2008 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 3711 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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DIW May-07

DON W. BULSON (BrainLAB)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE - 19TH FLOOR
CLEVELAND OH 44115

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OFFICE OF PETITIONS

In re Application of	:	
Brady et al.	:	DECISION ON PETITION
Application No. 10/753,979	:	
Filed: 01/08/2004	:	
Attny Docket No. SCHWP0211USA	:	

This is a decision in reference to the paper filed on 20 February, 2007, which is treated as a the petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED**.

The application became abandoned on 3 November, 2006, for failure to timely file a response to the final Office action mailed on 2 August, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 20 February, 2007.

Petitioners state that the Office action was not received because it was incorrectly mailed to an old address. Specifically, a revocation and power of attorney and change of correspondence address was filed on 12 December, 2005, but was never entered by the Office.

A review of the Official record reveals that a revocation and power of attorney by the assignee was filed on 12 December, 2005, but was not entered by the Office. As such, the Office action mailed on 2 August, 2006, was not mailed to the correct correspondence address, but rather to the address of petitioner's former attorneys.

As such, the showing of record is that the Office erred in mailing the non-final Office action mailed on 2 August, 2006, to

the previous address rather than the current correspondence address. As the error in mailing is due to an Office error, it is appropriate to remail the Office action to the current correspondence address.

As such, there is no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The Office apologizes for any inconvenience to petitioner.

The revocation and power of attorney filed on 12 December, 2005, has been accepted. A copy of the Notice Regarding Change of Power of Attorney and Notice of Acceptance of Power of Attorney are enclosed for petitioners' reference.

The address in the petition is different than the correspondence address. A copy of this decision will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application is referred to the Technology Center Technical Support Staff for remailing of the Office action mailed on 2 August, 2006. The time period for reply to the Office action will be reset to run from the date the Office action is remailed.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/753,979	01/08/2004	Martin Brady	723.065US1

CONFIRMATION NO. 6449

OC000000023704270

46140
DON W. BULSON (BrainLAB)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE - 19TH FLOOR
CLEVELAND, OH 44115

Date Mailed: 05/04/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/12/2005.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

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
10/753,979	01/08/2004	Martin Brady	723.065US1

CONFIRMATION NO. 6449

OC000000023704232

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

Date Mailed: 05/04/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/12/2005.

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

D Wood

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

NEW ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

In re Application of	:	
Eric Kandel et al.	:	
Application No. 10/753,991	:	DECISION ON PETITION
Filed: January 7, 2004	:	
Attorney Docket No. 0575/54806-AA/JPW/AJM/BJA	:	

This is a decision on the petition, filed March 9, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely reply to the Notice to File Missing Parts (Notice), mailed August 22, 2006, which set a two (2) month shortened statutory period for reply. A Notice of Abandonment was mailed on May 3, 2007.

Petitioner asserts that the Notice dated August 22, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and

3. a copy of the docket record where the nonreceived Notice would have been entered had it been received at the correspondence address of record with the USPTO must be attached to and referenced in the practitioner' statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. In this regard, although petitioner does state that the Notice was not received and provides a copy of a docket report for the above noted application, this alone is not sufficient. The showing required must include a statement from the practitioner describing the docketing system used for recording an Office action received at the correspondence address of record with the USPTO and indicating that the docketing system is sufficiently reliable. *See* MPEP § 711.03(c), I, A. The petition does not describe the docketing system or establish its reliability. Also, there is no indication in the petition that the address to which the Notice was mailed was not the correspondence address of record with the USPTO.

Moreover, a copy of the practitioner's record(s) required to show non-receipt of the Notice should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Notice, a copy of the master docket report showing all of the replies docketed for a date three months from the mail date of the nonreceived Notice must be submitted as documentary proof of nonreceipt of the Notice. If no such master docket exists, practitioner should so state and provide other evidence such as, but not limited, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Accordingly, absent the required evidence to establish nonreceipt of the Notice of Allowance and Fee(s) Due, the petition requesting withdrawal of the holding of abandonment cannot be granted.

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

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was

discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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GARVEY SMITH NEHRBASS & NORTH, LLC
LAKEWAY 3, SUITE 3290
3838 NORTH CAUSEWAY BLVD.
METAIRIE, LA 70002

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In re Application of :
Gardes : DECISION ON PETITION
Application No. 10/754,022 :
Filed: January 8, 2004 :
Dkt. No.: C02235US (26100.25C4) :

This decision is in response to the petition under 37 CFR 1.181 filed April 18, 2006.

This application was held abandoned February 14, 2005 for failure to timely file a proper response to a Notice of Informal or Nonresponsive Amendment (Notice) said to have been mailed January 13, 2005. Notice of Abandonment was mailed October 18, 2005.

Petitioner argues that the Notice mailed May 24, 2004 was not received at the correspondence address of record for the instant application.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the 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*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioner has provided a copy of the docket record where the Office communication would have been

entered had it been received along with a statement from practitioner that a search of the docket record and file jacket indicated that the Office communication was not received.

In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

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

This application is being directed to Group Art Unit 3672 for re-mailing of the Notice.

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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16TH FLOOR
NEW YORK NY 10001-7708

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In re Application of	:	
Shingo Takao et al	:	
Application No. 10/754,049	:	ON PETITION
Filed: January 5, 2004	:	
Attorney Docket No. 02303C1/HG	:	

This is a decision on the petition, filed September 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 29, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3744 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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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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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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AUG 17 2009

OFFICE OF PETITIONS

In re Patent No. 6,878,719 :
Issue Date: April 12, 2005 :
Application No. 10/754,056 : NOTICE
Filed: January 7, 2004 :
Attorney Docket No. C1271.70051US02 :

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 Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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PRINCETON PIKE CORPORATE CENTER
997 LENOX DRIVE, BUILDING 3
LAWRENCEVILLE NJ 08648

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OFFICE OF PETITIONS

In re Application of	:	
Arellano	:	
Application No. 10/754,077	:	DECISION ON PETITION
Filed: January 7, 2004	:	
Attorney Docket No. CEVALL 3.0-001	:	

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

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on August 8, 2005. The final Office Action set a three (3) month shortened statutory period for reply. A three (3) month extension of time was obtained under the provisions of 37 CFR §1.136(a). A Request for Continued Examination (RCE) was filed on February 8, 2006. The RCE was treated as an improper because it was not accompanied by a submission as required pursuant to 37 CFR 1.114. Accordingly, this application became abandoned on February 9, 2006. 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**.

The Request for Continued Examination (RCE), and amendment will be forwarded to Technology Center 1600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SOFER & HAROUN, L.L.P.
Suite 910
317 Madison Avenue
New York, NY 10017

COPY MAILED

FEB 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Jean-Louis Guillon	:	
Application No. 10/754,090	:	ON PETITION
Filed: January 7, 2004	:	
Attorney Docket No. 979-049	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on March 16, 2007, 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 August 31, 2006. A Notice of Abandonment was mailed on December 28, 2006.

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

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**.

This application file is being referred to the Office of Data Management to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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ALLEMAN HALL MCCOY RUSSELL & TUTTLE LLP
806 SW BROADWAY
SUITE 600
PORTLAND OR 97205-3335

MAR 2 1 2006

In re Application of: GOHMAN	:	
Application No. 10/754092	:	NOTICE OF WITHDRAWAL
Filed: 01/06/04	:	FROM ISSUE
Attorney Docket No. **IFC 347**	:	UNDER 37 CFR δ 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 δ 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 02/21/2006, are hereby vacated.

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

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

Telephone inquires should be directed to Judy Nguyen at (571) 272-2258.

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

Arthur Grimley, Acting Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,093	01/06/2004	Mark D. Peterson	IFC 346	5601

50488 7590 07/08/2008
ALLEMAN HALL MCCOY RUSSELL & TUTTLE LLP
806 SW BROADWAY
SUITE 600
PORTLAND, OR 97205-3335

EXAMINER
SEVER, ANDREW T

ART UNIT	PAPER NUMBER
2851	

MAIL DATE	DELIVERY MODE
07/08/2008	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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In re Patent No. PETERSON ET AL.	:	
Issue Date: 12/19/2006	:	**DECISION GRANTING**
Appl No.: 10/754,093	:	**PETITION**
Filed: January 06, 2004	:	*37 CFR 1.324*
For: PROJECTION TELEVISION DEVICE AND SCREEN	:	
	:	
	:	
	:	

This is a decision on the petition filed 03/21/2007 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Diane I. Lee
Supervisory Patent Examiner
Art Unit 2851
Technology Center 2800

ALLEMAN HALL MCCOY RUSSELL & TUTTLE LLP
806 SW BROADWAY
SUITE 600
PORTLAND, OR 97205-3335UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: July 7, 2008
TO: Certificates of Correction Branch
FROM: Diane I. Lee
SPE, Art Unit 2851
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,150,537 as specified on the attached Certificate.

Diane I. Lee, SPE
Art Unit 2851

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,150,537
Patented: 12/19/2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

PETERSON, Mark D.	LAKE OSWEGO	OREGON
ENGLE, T. Scott	TUALATIN	OREGON
GOHMAN, Jeffery A.	LAKE OSWEGO	OREGON

Diane I. Lee
Supervisory Patent Examiner
Art Unit 2851

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

TAROLLI, SUNDHEIM, COVELL,
TUMMINO, LLP
1300 EAST NINTH STREET
SUITE 1700
CLEVELAND, OH 44114

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DEC 1 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Susann BRADY-KALNAY, et al	:	
Application No. 10/754,102	:	DECISION ON PETITION
Filed: January 7, 2004	:	
Attorney Docket No. CWR-7780	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 29, 2009 and supplemented October 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 14, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 15, 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 Notice of Appeal; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1649 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

Applicant	: Matthew D. Cupal	: DECISION ON REQUEST FOR
Patent Number	: 7609286	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/754,104	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **659** 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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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 05/17/2010

Applicant : Matthew D. Cupal
Patent Number : 7609286
Issue Date : 10/27/2009
Application No : 10/754,104
Filed : 01/08/2004

: 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 **692** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/754,112	01/08/2004	2186	2060	225897	40	63	9

CONFIRMATION NO. 1701

CORRECTED FILING RECEIPT

OC000000012644554

38887
LEYDIG, VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON
CHICAGO, IL 60601-6780

Date Mailed: 05/26/2004

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

Applicant(s)

Alessandro Forin, Redmond, WA;
Johannes V. Helander, Bellevue, WA;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA;

Domestic Priority data as claimed by applicant

This application is a CON of 09/282,227 03/31/1999 ABN
which claims benefit of 60/099,562 09/09/1998

Foreign Applications

If Required, Foreign Filing License Granted: 04/13/2004

Projected Publication Date: 08/19/2004

Non-Publication Request: No

Early Publication Request: No

Title

Highly componentized system architecture with loadable virtual memory manager

Preliminary Class

711

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

GRANTED

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

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

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

NOT GRANTED

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

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MICROSOFT CORPORATION
ATTN: PATENT GROUP DOCKETING DEPT.
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

MAILED

JAN 1 0 2006

Technology Center 2100

In re Application of:
FORIN, ET AL.
Application Serial No.: 10/754,112
Filed: January 8, 2004
For: **HIGHLY COMPONENTIZED SYSTEM ARCHITECTURE WITH LOADABLE VIRTUAL MEMORY MANAGER**

DECISION ON
PETITION *under 37 CFR 1.102*

This is a decision on the petition, filed on November 21, 2005 under MPEP 708.01(I), requesting an expedited action on the merits. This petition has been considered as a request to affirm that this application is under "special" status in accordance with 37 CFR 1.102.

This application is a continuation of SN 09/282,227 filed March 31, 1999.

708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, ***including those which, by relation to a prior United States application, have an effective pendency of more than 5 years***. See MPEP § 707.02. [emphasis added]

In accordance with MPEP section 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is considered special in accordance with PTO policy.

Accordingly, the petition is **Granted**.

The examiner will be notified that this application should be considered as "special" and appropriate for expedited action. 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

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PARSONS HSUE & DE RUNTZ LLP
SUITE 1800
655 MONTGOMERY STREET
SAN FRANCISCO CA 94111

MAIL

SEP 30 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Kenneth G. Oetzel, et al.
Application No. 10/754,136
Filed: January 8, 2004
For: SEARCHABLE DVD INCORPORATING METADATA

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

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

Attorney requesting withdrawal is not of record. Mr. Michael G. Cleveland remains the only attorney of record.

Accordingly, the request is **DENIED.**

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

The file is being returned to TC 2600 Central Files to await examination in appropriate turn.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Thomas F. Lebens
Fitch, Even, Tabin and Flannery
1010 Peach Street
San Luis Obispo, CA 93401

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 032007

WOO SOON CHOE
THE SONI LAW FIRM
55 S. LAKE AVENUE
SUITE 720
PASADENA, CA 91101

MAR 13 2007

In re Application of:	:	
Carl Catera	:	PETITION FOR CORRECTION OF
Serial No.: 10/754,154	:	INVENTORSHIP
Filed: January 9, 2004	:	UNDER 37 CFR § 1.48(a)
Attorney Docket No.: SS-106U	:	

This is a decision on the petition filed February 5, 2007 to correct inventorship under 37 CFR 1.48(a)

The petition is granted.

In view of the papers filed February 5, 2007 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 1.48(a). The inventorship of this application has been changed by adding the name:

Dilip Bhavnani

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

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THOMPSON E. FEHR
GOLDENWEST CORPORATE CENTER
SUITE 300
5025 ADAMS AVENUE
OGDEN, UT 84403

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JUL 17 2008

OFFICE OF PETITIONS

In re Application of :
Patrick R. Hoggan :
Application No. 10/754,156 :
Filed: January 9, 2004 :
Attorney Docket No. PHOGB :

ON PETITION

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

The petition is **GRANTED**.

This 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 July 6, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 7, 2007. See MPEP 1215.04.

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

This matter is being referred to Technology Center AU 3679 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Thompson E. Fehr
Goldenwest Corporate Center
Suite300
5025 Adams Avenue
Ogden UT 84403

MAILED

OCT 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Patrick R. Hoggan	:	
Application No. 10/754,156	:	DECISION ON PETITION
Filed: January 9, 2004	:	
Attorney Docket No. PHOGB	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Appeal Brief, mailed August 11, 2008. The Notice set a period for reply of one (1) months 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 September 12, 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 $810, 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 3679 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILMERHALE/COLUMBIA UNIVERSITY
399 PARK AVENUE
NEW YORK NY 10022

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FEB 25 2008

OFFICE OF PETITIONS

In re Patent No. 7,164,152	:	
Issued: 01/16/2007	:	
Application No. 10/754,157	:	NOTICE
Filed: 01/09/2004	:	
Attorney Docket No. 19240.142-US2	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 25, 2007.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-25-10

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/754,161 Patent No.: 7286735

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

FOR IFW FILES: Should Drawings be approved

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

Ennis Young LTE
Randolph Sq. Ste 9D62A
703-756-1542

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

The Request for Certificate of Correction for the purpose of correcting typographical errors.

SPE /UYEN-CHAU N. LE/ **ART UNIT** 2874

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAIL

APR 0 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

TOWNSEND, TOWNSEND and CREW, LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3834

In re Application of : NAKAGAWA ET AL.
Application No. 10/754,164
Filed: JANUARY 9, 2004
For: CONTROL METHOD OF STORAGE CONTROL APPARATUS AND STORAGE CONTROL APPARATUS

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII) & 37 C.F.R. 102(d)

This is a decision on the petition filed February 10, 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.

Brian L. Johnson 3/31/05
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

JC

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/29/10

TO SPE OF : ART UNIT 3764

SUBJECT : Request for Certificate of Correction for Appl. No.: 10754166 Patent No.: 7344481

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.

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

Comments: _____

/LoAn H.Thanh/ 3764

Deleted: ____

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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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AGOURON PHARMACEUTICALS, INC.
10350 NORTH TORREY PINES ROAD
LA JOLLA, CA 92037

COPY MAILED

AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Suzanne Benedict et al	:	
Application No. 10/754,171	:	DECISION ON PETITION
Filed: January 9, 2004	:	UNDER 37 CFR 1.181
Attorney Docket No. PC25144A	:	

This is in response to the request for a "Corrective Filing Receipt," filed June 28, 2004, which is being treated as a petition under 37 CFR 1.181.

The petition is dismissed.

Petitioner requests a corrected updated Filing Receipt to include domestic priority data; i.e., priority benefits under 35 U.S.C. § 119(e) to provisional Application No. 60/439,396, filed January 9, 2003.

However, issuance of a corrected Filing Receipt is not appropriate herein at this time since the continuity claimed under 35 U.S.C. § 119(e) was not filed during the required time period as set out in 37 CFR 1.78(a)(5)(ii). Applicant may wish to consider filing a petition to accept an unintentionally delayed claim for priority under 37 CFR 1.78(a)(6).

Additionally, the claim for priority to the provisional application under 35 U.S.C. § 119(e) must be included as an amendment to the first line of specification complying with 37 CFR 1.121 and in a separate communication (*note* 37 CFR 1.4(c)) or in an Application Data Sheet in accordance with 37 CFR 1.76(b)(6).

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

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306[1]
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Effective approximately September 28, 2004, the facsimile number will be 571-273-0025, which is when the Office of Petitions expects to move to the new quarters in Alexandria, Virginia. However, this number is not to be used for submitting formal papers, but merely is to be used for receiving courtesy and informal papers and petitions to withdraw from issue only. Courtesy and informal papers will not be made a part of the file record.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AGOURON PHARMACEUTICALS, INC.
10350 NORTH TORREY PINES ROAD
LA JOLLA, CA 92037

COPY MAILED

DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of
Suzanne Benedict et al
Application No. 10/754,171
Filed: January 9, 2004
Attorney Docket No. PC25144A

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 8, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional Application No. 60/439,396, filed January 9, 2003, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on January 9, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/439,396, which was filed on January 9, 2003, 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 instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the

nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/439,396 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

After this decision is mailed, deposit account No. 50-0329 will be charged $1,330.00 for the petition fee.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220.

The application is being forwarded to Technology Center AU 1625 for appropriate action on the amendment submitted September 8, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/439,396.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO CA 94403

COPY MAILED

MAY 1 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Hugh R. Sharkey et al.	:	
Application No. 10/754,182	:	DECISION ON PETITION
Filed: January 9, 2004	:	
Attorney Docket No. 10078-702.201	:	

This is a decision on the petition under 37 CFR 1.182, filed February 28, 2008, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. Also, office records have been corrected to reflect the correct spelling of inventor Radovancevic. A corrected Filing Receipt, which sets forth the desired order of the named inventors and the correct spelling of Radovancevic, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to Christopher Bottorff at (571) 272- 6692.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/754,182	01/09/2004	3762	840	10078-702.201	49	6

CONFIRMATION NO. 8476

CORRECTED FILING RECEIPT

OC000000029896591

66854
SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

Date Mailed: 05/13/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Alexander Khairkhahan, Palo Alto, CA;
Serjan D. Nikolic, San Francisco, CA;
Branislav Radovancevic, Houston, TX;
Hugh R. Sharkey, Redwood City, CA;

Assignment For Published Patent Application

CardioKinetix, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 66854

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/754,182**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

VENTRICULAR PARTITIONING DEVICE

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : July 23, 2010

TO : Director, Office of Data Management

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 10/754,187**

Applicant(s) : Sehat Sutardja
Application No. : 10/754,187
Filed : January 8, 2004

The above-identified application has been assigned Patent No. 7,772,809 and an issue date of August 10, 2010.

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 10, 2010:

> **"All reference to Patent No. 7,772,809 to Sehat Sutardja of California for DIGITAL LOW DROPOUT REGULATOR appearing in the Official Gazette of August 10, 2010 should be deleted since no patent was granted."**

Terri Johnson
Terri Johnson
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Brad Harris
Kim Terrell
Lamont Fletcher

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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HARNESS, DICKEY & PIERCE P.L.C.
5445 CORPORATE DRIVE
SUITE 200
TROY MI 48098

MAILED

JUL 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Sehat Sutardja	:	
Application No. 10/754,187	:	DECISION GRANTING PETITION
Filed: January 8, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MP0400.I	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 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 June 24, 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 2838 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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BAHRET & ASSOCIATES
320 NORTH MERIDIAN STREET, SUITE 510
INDIANAPOLIS IN 46204

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FEB 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
MARKS, Robert D.	:	
Application No. 10/754,198	:	DECISION ON PETITION
Filed: January 9, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 214-2	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 11, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes the declaration of inventor Robert D. Marks, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3765 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON OH 44718-3615

COPY MAILED
AUG 1 9 2004
OFFICE OF PETITIONS

In re Application of :
Nicholas M. Sedon and Richard :
E. Corney : DECISION GRANTING PETITION
Application No. 10/754,211 : UNDER 37 CFR 1.47(a)
Filed: January 9, 2004 :
Title: MERCHANDISE DISPLAY
SYSTEM

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.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703)306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RICHARD E. CORNEY
4894 PROVENS ROAD
AKRON, OH 44319

COPY MAILED
AUG 1 9 2004
OFFICE OF PETITIONS

In re Application of
Nicholas M. Sedon and Richard E. Corney
Application No. 10/754,211
Filed: January 9, 2004
Title: MERCHANDISE DISPLAY SYSTEM

Dear RICHARD E. CORNEY:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Edward Tannouse at (703)306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON OH 44718-3615

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
10/754,217	01/09/2004	2863	971	15455.4.1	7	54	8

CONFIRMATION NO. 8005

CORRECTED FILING RECEIPT

OC000000014035537

022913
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

Date Mailed: 10/08/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

David V. Arnold, Provo, UT;
John B. Dougall JR., Highland, UT;
Bradley Curtis Giles, American Fork, UT;
Bryan Robert Jarrett, Orem, UT;
Thomas William Karlinsey, Orem, UT;
Jonathan L. Waite, Orem, UT;

Assignment For Published Patent Application

WAVETRONIX

Power of Attorney: The patent practitioners associated with Customer Number **022913**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/439,109 01/10/2003

Foreign Applications

If Required, Foreign Filing License Granted: 04/14/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/754,217

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Systems and methods for monitoring speed

Preliminary Class

702

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

7-13-09

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,426,450
Application No: 10/754,217
Inventor(s) : Arnold, et. al.
Issued : September 16, 2008

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 Rules 1.322.

Respecting the alleged error, the inventor's name (s) is printed in accordance with the Declaration submitted at the time of filing the application. There is no sub-declaration or post card receipt adding or deleting inventor's name under Rule 1.324. Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 224 and the Code of Federal Regulation (C.F.R.) 1.322.

In view of the foregoing your requestin this matter is hereby denied.

A certificate of correction will issue to correct the remaining errors noted in your request.

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent, which a decision is rendered on, by the Supervisory Patent Examiner.

Eva James
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

John C. Stringham, Workman Nydegger
100 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

ej

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

PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

MAILED

MAY 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Roskam et al.	:	
Application No. 10/754224	:	
Filing or 371(c) Date: 01/09/2004	:	LETTER
Attorney Docket Number: ADV012 P309	:	

This correspondence is regarding the request for acceptance of a fee deficiency submission. The request is treated as a petition under 37 CFR 1.28.

Any further petition must be submitted within ONE (1) MONTH 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 [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Applicant filed a request for acceptance of fee deficiency submission on August 7, 2007. Applicant submitted therewith an authorization to charge applicant's deposit account $2,150.00. The Office did not charge the deposit account at that time. Applicant submits the present request, noting that the deposit account has not been charged, and also submit a check in the amount of $2,150.00.

The applicable Rule, 37 CFR 1.28(c), How errors in small entity status are excused, requires, in relevant part,

> (2) Payment of deficiency owed . The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.
> (i) Calculation of the deficiency owed . <u>The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment.</u> The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity. Where a fee paid in error as a small entity was subject to a fee decrease between the time the fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal

to the amount (previously) paid in error;
(ii) Itemization of the deficiency payment . An itemization of the total deficiency payment is required. The itemization must include the following information:
(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;
(C) The deficiency owed amount (for each fee erroneously paid); and
(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.
(3) Failure to comply with requirements . If the requirements of paragraphs (c)(1) and (c)(2) of this section are not complied with, such failure will either: be treated as an authorization for the Office to process the deficiency payment and charge the processing fee set forth in § 1.17(i), or result in a requirement for compliance within a one-month non-extendable time period under § 1.136(a) to avoid the return of the fee deficiency paper, at the option of the Office.

(Emphasis supplied).

A review of the deficiency fee submitted reveals that applicant has failed to properly calculate, itemize and submit the payment of the deficient fee. For example, applicant submits with the petition a deficient fee of $425.00 for the basic utility patent application filing fee; however, at the time the deficiency fee was submitted, August 7, 2008, the utility application filing requires a large entity basic filing fee of $310.00; a utility search fee of $510.00, and an examination fee of $210.00, for a total of $1030. Applicant provides that the fee actually paid on January 9, 2004 was $385.00. The difference is $645.00.

A copy of the first page of the Revised Fee Schedule in effect on August 7, 2008 is enclosed herewith.

As provided *supra*, applicant is given a period of one (1) month to comply with 37 CFR 1.28. Extensions of time are available.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 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 petition Decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of page 1 of Revised Fee Schedule Effective September 30, 2007

UNITED STATES PATENT AND TRADEMARK OFFICE
Effective September 30, 2007 *

Any fee amount paid on or after September 30, 2007, must be paid as shown in the revised fee schedule.
The fees subject to reduction for small entities that have established status (37 CFR 1.27) are shown in a separate column.
For additional information, please call the USPTO Contact Center at (571) 272-1000 or (800) 786-9199.

* The effective date for the fee amounts for PCT fee codes 1602 and 1604 is November 9, 2007.
The effective date for the fee amount for Trademark fee code 7212 is November 10, 2007.
The effective date for the fee amounts for PCT fee codes 1701, 1702, and 1710 is November 15, 2007.

Fee Code	37 CFR	Description	Fee	Small Entity Fee (if applicable)
Patent Application Filing Fees				
1011/2011	1.16(a)(1)	Basic filing fee - Utility ***filed on or after December 8, 2004***	310.00	155.00
4011†	1.16(a)(1)	Basic filing fee - Utility (electronic filing) ***filed on or after December 8, 2004***	N/A	75.00
1001/2001	1.16(a)(2)	Basic filing fee - Utility ***filed before December 8, 2004***	810.00	405.00
1201/2201	1.16(h)	Independent claims in excess of three	210.00	105.00
1202/2202	1.16(i)	Claims in excess of 20	50.00	25.00
1203/2203	1.16(j)	Multiple dependent claim	370.00	185.00
1051/2051	1.16(f)	Surcharge - Late filing fee or oath or declaration	130.00	65.00
1081/2081	1.16(s)	Utility Application Size Fee - for each additional 50 sheets	260.00	130.00
1012/2012	1.16(b)(1)	Basic filing fee - Design ***filed on or after December 8, 2004***	210.00	105.00
1002/2002	1.16(b)(2)	Basic filing fee - Design ***filed before December 8, 2004***	360.00	180.00
1017/2017	1.16(b)(1)	Basic filing fee - Design (CPA) ***filed on or after December 8, 2004***	210.00	105.00
1007/2007	1.16(b)(2)	Basic filing fee - Design (CPA) ***filed before December 8, 2004***	360.00	180.00
1082/2082	1.16(s)	Design Application Size Fee - for each additional 50 sheets	260.00	130.00
1013/2013	1.16(c)(1)	Basic filing fee - Plant ***filed on or after December 8, 2004***	210.00	105.00
1003/2003	1.16(c)(2)	Basic filing fee - Plant ***filed before December 8, 2004***	570.00	285.00
1083/2083	1.16(s)	Plant Application Size Fee – for each additional 50 sheets	260.00	130.00
1014/2014	1.16(e)(1)	Basic filing fee - Reissue ***filed on or after December 8, 2004***	310.00	155.00
1004/2004	1.16(e)(2)	Basic filing fee - Reissue ***filed before December 8, 2004***	810.00	405.00
1019/2019	1.16(e)(1)	Basic filing fee - Design Reissue (CPA) ***filed on or after December 8, 2004***	310.00	155.00
1009/2009	1.16(e)(2)	Basic filing fee - Design Reissue (CPA) ***filed before December 8, 2004***	810.00	405.00
1204/2204	1.16(h)	Reissue independent claims in excess of three	210.00	105.00
1205/2205	1.16(i)	Reissue claims in excess of 20	50.00	25.00
1084/2084	1.16(s)	Reissue Application Size Fee – for each additional 50 sheets	260.00	130.00
1005/2005	1.16(d)	Provisional application filing fee	210.00	105.00
1085/2085	1.16(s)	Provisional Application Size Fee - for each additional 50 sheets	260.00	130.00
1052/2052	1.16(g)	Surcharge - Late provisional filing fee or cover sheet	50.00	25.00
1053	1.17(i)	Non-English specification	130.00	
Patent Search Fees				
1111/2111	1.16(k)	Utility Search Fee	510.00	255.00
1112/2112	1.16(l)	Design Search Fee	100.00	50.00
1113/2113	1.16(m)	Plant Search Fee	310.00	155.00
1114/2114	1.16(n)	Reissue Search Fee	510.00	255.00
Patent Examination Fees				
1311/2311	1.16(o)	Utility Examination Fee	210.00	105.00
1312/2312	1.16(p)	Design Examination Fee	130.00	65.00
1313/2313	1.16(q)	Plant Examination Fee	160.00	80.00
1314/2314	1.16(r)	Reissue Examination Fee	620.00	310.00
Patent Post-Allowance Fees				
1501/2501	1.18(a)	Utility issue fee	1,440.00	720.00
1502/2502	1.18(b)	Design issue fee	820.00	410.00
1503/2503	1.18(c)	Plant issue fee	1,130.00	565.00
1511/2511	1.18(a)	Reissue issue fee	1,440.00	720.00
1504	1.18(d)	Publication fee for early, voluntary, or normal publication	300.00	
1505	1.18(d)	Publication fee for republication	300.00	

† The 4000 series fee code may be used via EFS-Web at *www.uspto.gov/ebc/efs/*.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

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

HENRY ESTAVEZ
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
255 SO. ORANGE AVE., SUITE 1401
ORLANDO, FL 32802-3791

COPY MAILED

AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Chai, Bruce	:	
Application No. 10/754,238	:	DECISION GRANTING PETITION
Filed: January 9, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 59949	:	

This is a decision on the petition, filed July 27, 2005, 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 5, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 17, 2005, accompanies this decision on petition.

Petitioner stated that the petition fee was being submitted by credit card. However, the credit card authorization form was not attached to the instant petition. Nevertheless, petitioner gave authorization to charge any additional fees that were required. Further, the petition fee is $750.00, rather than $665.00, as stated in the instant petition. Accordingly, in view of the missing credit card authorization form, the $750.00 petition fee will be charged to petitioner's deposit account.

This matter is being referred to Technology Center Art Unit 2878 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WHYTE HIRSCHBOECK DUDEK SC
555 EAST WELLS STREET
SUITE 1900
MILWAUKEE, WI 53202

COPY MAILED

JUL 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Timothy P. Goggins	:	
Application No. 10/754,243	:	DECISION GRANTING PETITION
Filed: January 9, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NG-32232	:	

This is a decision on the petition, filed July 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2854 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUN 1 8 2010

In re Patent No. 7,097,137 Issue Date: August 29, 2006 Appl No.: 10/754,251 Filed: January 09, 2004 MCDONNELL, WILLIAM R. For: LAUNCH AND RECOVERY SYSTEM FOR UNMANNED AERIAL VEHICLES	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed May 19, 2008 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Michael R. Mansen
Supervisory Patent Examiner
Art Unit 3644
Technology Center 3600

POLSTER, LIEDER, WOODRUFF & LUCCHESI
12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS, MO 63131-3615

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUN 1 8 2010

DATE: January 20, 2010
TO: Certificates of Correction Branch
FROM: Michael R. Mansen
SPE, Art Unit 3644
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,097,137 as specified on the attached Certificate.

Michael R. Mansen, SPE
Art Unit 3644

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,097,137
Patented: August 29, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

William R. McDonnell, St. Louis, MO (US); Charles H. Baker, Union, MO (US)

Michael R. Mansen
Supervisory Patent Examiner
Art Unit 3644

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,097,137

DATED : August 29, 2007

INVENTOR(S) : William R. McDonnell

It is certified that errors made in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Title Page, (12)

Replace "McDonnell"
With – "McDonnell, et al."

Title Page, (75)

Replace "William R. McDonnell, St. Louis, MO (US)"
With --"William R. McDonnell, St. Louis; Charles H. Baker, Union, both of MO (US)" --

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 possess) 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: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WilmerHale/Columbia University
399 PARK AVENUE
NEW YORK NY 10022

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NOV 28 2007

OFFICE OF PETITIONS

In re Application of :
James Im :
Application No. 10/754,260 :
Filed: January 9, 2004 :
Attorney Docket No. :
19240.139US2

NOTICE

This is a notice regarding your request, filed September 25, 2007, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is no longer entitled to small entity status. Accordingly, all future fees paid in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090115

DATE : January 15, 2009

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction on Patent No.: 7,435,213 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Charles A. Marmor, II/ **Art Unit** 3735

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20090115

DATE : 01/15/09

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction for Appl. No.: 10754264 Patent No.: 7435213 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: _____

/Charles A. Marmor, II/ 3735

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael S. Neustel
2534 South University Drive
Suite No. 4
Fargo, ND 58103

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NOV 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
BARETELA	:	
Application No. 10/754,266	:	DECISION ON PETITION
Filed: January 09, 2004	:	TO WITHDRAW
Attorney Docket No. BARE-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 July 28, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael S. Neustel, the sole attorney of record.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and all future correspondence will be directed to the first named inventor Ronald Baretela at the address indicated below until otherwise properly notified by the applicant.

A Review of the file discloses that a non-final Office action was mailed on June 21, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of June 21, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: Ronald Baretela
696 Bellmore Avenue
East Meadow, NY 11554

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/754,266	01/09/2004	Ronald Baretela	BARE-001

CONFIRMATION NO. 7779

OC000000021115008

Michael S. Neustel
Suite No. 4
2534 South University Drive
Fargo, ND 58103

Date Mailed: 11/06/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/28/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS MN 55402

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MAR 1 2 2007

OFFICE OF PETITIONS

In re Application of

Williams, et al. :

Application No. 10/754,267

: DECISION ON PETITION

Filed: January 9, 2004

:

Attorney Docket No. 48020.3.1

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 12, 2005, which set a shortened period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on January 13, 2005. A Notice of Abandonment was mailed onJ une 27, 2006.

The amendment filed August 25, 2006 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 is being forwarded to Technology Center 3700, GAU 3745 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:

David R. Fairbairn
Kinney & Lange, PA
The Kinney & Lange Building
312 South 3rd Street
Minneapolis, MN 55415-1002

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OFFICE OF PETITIONS

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS MN 55415-1002

In re Application of :
Verlin M. Simmons, et al. :
Application No. 10/754,267 : ON PETITION
Filed: January 9, 2004 :
Attorney Docket No. U73.12-0124-PA-0001887-US :

This is a decision on the petition under 37 CFR 1.137(b), filed July 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed March 14, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of issue fee and publication fee; (2) the petition fee of $1500.00; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of the issue fee and publication fee, which were submitted with the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3213.

The application file is being forwarded to the Publishing Division to be processed into a patent.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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Nathan S. Huynh
Fenwick & West, LLP
Silicon Valley Center

DEC 21 2005

In re Application of:
Steve W. Meeks
Serial No.: 10/754,275
Filed: January 8, 2004
Attorney Docket No.: **20830/08676**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed June 17, 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 John T. McNells, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

There are no attorneys/agents of record at this time. All future communications from the Office will be directed to Caven & Aghevil, LLC, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Jed Caven
Caven & Aghevil, LLC
9249 S. Broadway Blvd., Unit 200-201
Highlands Ranch, CO 80129

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DIW Sep-06

PATENT COUNSEL
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT, M/S 2061
P.O. BOX 450-A
SANTA CLARA CA 95035

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OFFICE OF PETITIONS

In re Application of	:	
Hofman et al.	:	
Application No. 10/754,280	:	ON PETITION
Filed: 8 January, 2004	:	
Atty. Docket No. 4097 P03	:	

This is a decision on the paper filed on 20 April, 2006, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

This application became abandoned on 7 January, 2006, for failure to file a timely reply to the Notice of Allowance and Fee(s) Due mailed on 6 October, 2005, which set a three (3)-month statory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioners aver that a review of the PAIR system shows that the Notice mailed on 6 October, 2005, was returned to the Office as undeliverable. Petitioners further state that "applicants address was printed [on the envelope containing the Notice mailed on 6 October, 2005] so faintly that it is virtually unreadable, and certainly would have been considered unreadable by U.S. Post Office personnel." (emphasis in original)

A review of the record indicates no irregularity in the mailing of the Office communication mailed on 6 October, 2005, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office communication was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office

communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. Although a review of Office records reveals that the Office communication mailed on 6 October, 2005, was returned by the USPS, it is not clear that the envelope was returned due to Office error, as petitioners argue. As such, a grantable petition to withdraw the holding of abandonment requires the showing required in MPEP 711.03(c)(A), which states, in pertinent part:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication **must** include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed **must** be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

(emphasis added)

---

[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Therefore, the practitioner must submit a copy of the docket report showing all replies docketed for three (3) months from the mail date of the Notice mailed on 6 October, 2005, as well as a statement that a January, 2006, as well as final Office action (*i.e.*, from 6 August, 2003, up to and including, 6 November, 2003) as documentary proof of non-receipt of the Office action. With the present petition, however, the practitioner only submitted docket records for the period of 7 November through 12 November, 2003. Additionally, petitioners must provide a statement 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.

As such the application is properly held abandoned.

The petition is **DISMISSED.** However such dismissal is without prejudice to reconsideration pending submission of the showing outlined above.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Extensions of time are permitted under 37 CFR 1.136(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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PATENT COUNSEL
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT, M/S 2061
P.O. BOX 450-A
SANTA CLARA CA 95035

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Hofman et al.	:	
Application No. 10/754,280	:	ON PETITION
Filed: 8 January, 2004	:	
Atty. Docket No. 4097 P03	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181 BASED UPON FAILURE TO RECEIVE OFFICIAL ACTION" filed on 26 October, 2006, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

This application became abandoned on 7 January, 2006, for failure to file a timely reply to the Notice of Allowance and Fee(s) Due mailed on 6 October, 2005, which set a three (3)-month statory period for reply. The petition filed on 20 April, 2006, was dismissed on 20 September, 2006.

The present renewed petition was filed on 26 October, 2006.

Petitioners again assert that a review of the PAIR system shows that the Notice mailed on 6 October, 2005, was returned to the Office as undeliverable.

A review of the record indicates that the Office action was properly mailed to the petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

A review of the record indicates that the USPTO mailed the Notice of Allowance and Fee(s) Due and Notice of Allowability to the

correct correspondence address; however, it was inexplicably returned to the USPTO on 13 October, 2005. For this reason, the practitioner did not receive the Office communication of 6 October, 2005.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As such, the holding of abandonment is **withdrawn**. The application is restored to pending status.

The petition is **GRANTED.**

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application file is being referred to Technology Center 3700 technical support staff for remailing of the Notices mailed on 6 October, 2005. The period for reply will be reset from the mailing date thereof.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: Law Office of Robert M. Wallace
2112 Eastman Avenue, Suite 102
Ventura CA 93003

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MD 200-9
SUGAR LAND TX 77478

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OFFICE OF PETITIONS

In re Application of	:	
Moriarty	:	
Application No. 10/754,302	:	ON PETITION
Filed: January 9, 2004	:	
Attorney Docket No. 19.0321	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed June 16, 2006. Accordingly, this application became abandoned on September 17, 2006. A Notice of Abandonment was mailed on October 30, 2006.

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 June 16, 2006 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 matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

MCCRACKEN & FRANK LLP
311 S. WACKER DRIVE
SUITE 2500
CHICAGO IL 60606

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Erik Castle	:	DECISION ON
Application No. 10/754,308	:	PETITION
Filed: January 9, 2004	:	
Atty Docket No. 80013/40045A	:	
	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed by facsimile transmission on Monday, November 26, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, August 23, 2007, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received by Friday, November 23, 2007, the above-identified application became abandoned on November 24, 2007. The filing of the instant petition precedes the mailing of a courtesy Notice of Abandonment.

The petition included required reply[1] in the form of payment of the Issue Fee and Publication Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

[1] There was no distinct but concurrent requirement for new drawings.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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OFFICE OF PETITIONS

In re Application of
Gustafson, et al.
Application No.: 10/754,313
Filed: January 9, 2004
Attorney Docket No.: 14315US02
For: MOBILE SERVICE NETWORK FOR UPDATE OF FIRMWARE/SOFTWARE IN MOBILE HANDSETS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 18, 2004 (certificate of mailing date October 13, 2004).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on January 9, 2004 without an executed oath or declaration. Accordingly, on April 15, 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, on October 18, 2004 (certificate of mailing date October 13, 2004), a request for a four month extension of time and required fee, a declaration executed by 6 of 8 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration by Bindu Rama Rao, a patent engineer for Bitphone Corporation, and a declaration by Dima N. Moussa, a technical specialist for the law firm of McAndrews, Held & Malloy, Ltd., accompany the petition. The declarations establish that the non-signing inventors did not return telephone calls and despite the fact that they were successfully mailed a copy of the application, they did not return executed declarations.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,

(2) a proper oath or Declaration executed by the available joint inventor(s),

(3) the fee of $130 as specified in 37 CFR § 1.17(h), and

(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

The declaration contains noninitialed, nondated alteration to Vincent P. Soverano's and Toni Pakarinen's information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(a).

Fortunately, the deficiencies or inaccuracies relate to signing inventors. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Soberano and Ms. Pakarinen can correct their respective information on a supplemental declaration identifying the entire inventive entity and their information, but signed only by the two of them.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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SUITE 3400
CHICAGO IL 60661

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OFFICE OF PETITIONS

In re Application of
Marolia, et al.
Application No.: 10/754,313
Filed: January 9, 2004
Attorney Docket No.: 14315US02
For: MOBILE SERVICE NETWORK FOR UPDATE OF FIRMWARE/SOFTWARE IN MOBILE HANDSETS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed February 1, 2005.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioners have shown that the non-signing inventors, Teck Chia and John D. V. Dinh, have constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, a declaration by Bindu Rama Rao, a patent engineer for Bitphone Corporation, and a declaration by Dima N. Moussa, a technical specialist for the law firm of McAndrews, Held & Malloy, Ltd., establish that the non-signing inventors did not return telephone calls and, despite the fact that they were successfully mailed copies of the application, they did not return executed declarations. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS MN 55403-2420

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JUN 26 2007

OFFICE OF PETITIONS

In re Patent No. 6,888,098	:
Issue Date: May 3, 2005	: DECISION ON PETITION
Application No. 10/754,314	: UNDER 37 CFR 1.78(a)(3)
Filed: January 9, 2004	:
Attorney Docket No. 1001.1756102	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 27, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 10/190,424, filed July 3, 2002, by way of a certificate of correction filed concurrently herewith.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority 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.

Where priority is based upon 35 U.S.C. 120 to a national application, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and

(C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application 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 above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

As authorized, the $1,370 surcharge fee, as well as the $100 certificate of correction fee, will be charged to petitioner's Deposit Account No. 50-0413.

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/754,314	01/09/2004	1725	1394	1001.1756102	37	3

CONFIRMATION NO. 7500

CORRECTED FILING RECEIPT

OC000000024530384

28075
CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Date Mailed: 06/26/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kenneth M. Merdan, Greenfield, MN;
Jan Weber, Maple Grove, MN;

Assignment For Published Patent Application

SCIMED LIFE SYSTEMS, INC.

Power of Attorney: The patent practitioners associated with Customer Number **28075**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/190,424 07/03/2002 PAT 6,696,666

Foreign Applications

If Required, Foreign Filing License Granted: 04/19/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/754,314

Projected Publication Date: None, application has issued.

Non-Publication Request: No

Early Publication Request: No

Title

TUBULAR CUTTING PROCESS AND SYSTEM

Preliminary Class

219

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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED
MAY 31 2005
Technology Center 2100

In re Application of KOBAYASHI et al	:	
Application No.: 10/754,371	:	DECISION ON PETITION
Filing Date: January 9, 2004	:	FOR ACCELERATED
For: STORAGE DEVICE CONTROLLING	:	EXAMINATION UNDER
APPARATUS AND METHOD OF	:	M.P.E.P. §708.02(VIII)
CONTROLLING THE SAME	:	

This is a decision on the petition filed March 3, 2005 under 37 CFR §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 CFR §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. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new 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 >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

(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.

With respect to requirement (E), the petition does not contain a detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). Specifically, for each cited reference, the petition states that essentially all of the limitations of the independent claims are not taught or suggested. However, a submission that the entirety of the independent claims is not disclosed by the prior art does not provide a sufficient distinction between the claimed invention and each of the cited references.

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DISMISSED**.

Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

The application will remain in the status of a new application awaiting action in its regular turn.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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JAN 25 2006

TECHNOLOGY CENTER 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: KOBAYASHI et al.
Application No. 10/754,371
Filed: January 9, 2004
For: STORAGE DEVICE CONTROLLING APPARATUS AND METHOD OF CONTROLLING THE SAME

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER MPEP §708.02 (VIII)

This is a response to the renewed petition filed 18 July 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 03 March 2005. The petition was dismissed for failure to provide a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicants' submission filed 18 July 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out in the original decision. Accordingly, the petition is **GRANTED**. However, it is suggested that if the identical statement is being made to distinguish each reference from the claims, then the statement should simply be made once in the petition. (E.g., "None of the references disclose . . . .")

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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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
10/754,390	01/09/2004	3723	788	100196		21	1

CONFIRMATION NO. 7753

CORRECTED FILING RECEIPT

OC000000012537440

29050
PHYLLIS T. TURNER-BRIM, ESQ., LAW DEPARTMENT
CABOT MICROELECTRONICS CORPORATION
870 NORTH COMMONS DRIVE
AURORA, IL 60504

Date Mailed: 05/05/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Abaneshwar Prasad, Naperville, IL;
Ronald E. Myers, Aurora, IL;

Assignment For Published Patent Application

Cabot Microelectronics Corporation, Aurora, IL;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/15/2004

Projected Publication Date: 07/14/2005

Non-Publication Request: No

Early Publication Request: No

Title

Negative poisson's ratio material-containing CMP polishing pad

Preliminary Class
451

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MERCHANT AND GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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APR 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Victor Fuk-Pong Man, et al	:	
Application No. 10/754,396	:	DECISION ON PETITION
Filed: January 9, 2004	:	TO WITHDRAW
Attorney Docket No. 163.1877US01	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

Sarah M. Monfeldt has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no 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

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ALEXANDRIA, VA 22313-1450
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Paper No. None

SCHLUMBERGER IPC
ATTN: TIM CURINGTON
555 INDUSTRIAL BOULEVARD, MD-21
SUGAR LAND TX 77478

COPY MAILED
JUL 11 2006
OFFICE OF PETITIONS

In re Application of :
Michael H. Kennison et al. :
Application No. 10/754,399 : DECISION ON PETITION
Filed: January 9, 2004 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: 25.0254 :
Title: INFLATE CONTROL SYSTEM :
FOR INFLATABLE STRADDLE
STIMULATION TOOL

This is a decision on the petition filed on April 7, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 9, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 10, 2005. A notice of abandonment was mailed on March 20, 2006.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

> (b) 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.

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that a response to this communication was submitted "on December 9, 2005[1]" along with a petition for a one-month extension of time. Petitioner has submitted a copy of this response, and it is noted that it contains a certificate of facsimile transmission dated December 9, 2005.

Certificate of mailing practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous mailing and provided an additional copy of the previously submitted correspondence. However, it is noted that the certificate of mailing was executed by one Sherri Sitzmann, and it does not appear that Petitioner has included a statement from this individual. 37 C.F.R. §1.8(b)(3) requires the inclusion of a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. On renewed petition, Petitioner may wish to include a statement from Ms. Sitzmann.

Pursuant to the discussion above, the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

CONCLUSION

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

1 Petition, page 1.

letter entitled "Renewed Petition Under 37 C.F.R. 1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b).

Any subsequent petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

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Paper No. None

SCHLUMBERGER IPC
ATTN: TIM CURINGTON
555 INDUSTRIAL BOULEVARD, MD-21
SUGAR LAND TX 77478

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SEP 22 2006
OFFICE OF PETITIONS

In re Application of :
Michael H. Kennison et al. :
Application No. 10/754,399 : DECISION ON RENEWED PETITION
Filed: January 9, 2004 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: 25.0254 :
Title: INFLATE CONTROL SYSTEM :
FOR INFLATABLE STRADDLE
STIMULATION TOOL

This is a decision on the renewed petition filed on August 3, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 9, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 10, 2005. A notice of abandonment was mailed on March 20, 2006.

PROCEDURAL HISTORY

The original petition was received on April 7, 2006, and was dismissed via the mailing of a decision on July 11, 2006, as Petitioner asserted that a previous response was timely submitted, however he failed to comply with 37 C.F.R. §1.8(b)(3), in that he failed to include a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely transmission.

ANALYSIS

With this renewed petition, the previous deficiency has been rectified. As such, the petition under 37 C.F.R. §1.181 is **GRANTED**.

CONCLUSION

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on April 7, 2006 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
VOLPANO, Dennis M.	:	
Application No. 10/754,402	:	DECISION ON PETITION
Filed: January 09, 2004	:	TO WITHDRAW
Attorney Docket No. **324413.06/MFCP.141333**	:	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 28, 2008.

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 June 25, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **SHOOK, HARDY & BACON L.L.P.**
(c/o MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY MO 64108-2613

DATE 4/27/07

APPLICATION NUMBER 10/754,405

DOC CODE Pet Dec

DOC DATE 5/4/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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Merchant & Gould, PC
P.O. Box 2903
Minneapolis, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of	:	
Victor Fuk-Pong Man et al.	:	
Application No. 10/754,405	:	DECISION ON PETITION
Filed: January 9, 2004	:	TO WITHDRAW
Attorney Docket No. 168.1879US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Sarah M. Monfeldt, former attorney with the firm of Merchant & Gould, PC.

Sarah M. Monfeldt has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no pending office action 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MERCHANT AND GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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APR 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Victor Fuk-Pong Man, et al	:	
Application No. 10/754,426	:	DECISION ON PETITION
Filed: January 9, 2004	:	TO WITHDRAW
Attorney Docket No. 163.1801US01	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

Sarah M. Monfeldt has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed on December 22, 2006 that requires a reply by applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,435	01/09/2004	Xiaozhu Huang	02307O-079213US	8397

20350 7590 12/27/2007
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER
HADDAD, MAHER M

ART UNIT	PAPER NUMBER
1644	

MAIL DATE	DELIVERY MODE
12/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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In re Patent No.:	7,150,871	:
Issue Date:	December 19, 2006	: DECISION
Appl. No.:	10/754,435	: GRANTING
Filed:	January 9, 2004	: PETITION
For:	TREATMENT OF ACUTE LUNG INJURY, FIBROSIS AND METASTASIS WITH ANTAGONISTS OF ALPHAVBETA6	: 37 CFR 1.324

This is a decision on the request under **37 CFR 1.48** filed April 30, 2007. In view of the fact that the patent has already issued, the request under **37 CFR 1.48** has been treated as a petition to correct inventorship under **37 CFR 1.324**.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Christina Chan

Christina Chan
Supervisory Patent Examiner
Art Unit 1644
Technology Center 1600

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCHANT AND GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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MAY 04 2007

OFFICE OF PETITIONS

In re Application of	:	
Victor Fuk-Pong Man, et al	:	
Application No. 10/754,436	:	DECISION ON PETITION
Filed: January 9, 2004	:	TO WITHDRAW
Attorney Docket No. 163.1878US01	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

Sarah M. Monfeldt has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of Zhaoyu Wang, Stephan Lutz and Karl Inglehart Application No. 10/754,451 Filed: January 9, 2004 Attorney Docket No. 130109.465 Title: METHOD AND APPARATUS FOR LOCATING INTERNAL TRANSFER LEAKS WITHIN FUEL CELL STACKS	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the "PETITION TO ACCEPT APPLICATION WHEN ONE OF THE JOINT INVENTORS REFUSES TO SIGN OR CANNOT BE REACHED UNDER 37 C.F.R. § 1.47(a)," filed June 16, 2004.

The petition is **GRANTED**.

The above-identified application was filed on January 9, 2004, without an executed oath or declaration and missing the statutory basic filing fee. (The application included an application data sheet containing the residence and/or mailing addresses of all of the inventors). Accordingly, on April 16, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, the filing fee and a surcharge for its late filing.

In response, rule 47 applicants filed the instant petition (and fee); the filing fee; the late surcharge; and a declaration executed by joint inventors Lutz and Inglehart on behalf of themselves and on behalf of non-signing joint inventor Wang. Rule 47 applicants maintain that status under 37 CFR 1.47 is proper because joint inventor Wang refuses to join in the application for patent.

By declaration of Director of Intellectual Property, Cindy Longley, petitioner has shown that the application papers were presented to inventor Wang, but he refused to sign. Ms. Longley states that in a telephone conversation inventor Wang refused to sign. In addition, petitioner provides copies of email communications from inventor Wang, reflecting his refusal to sign. The petition includes a statement of the last known address of the non-signing inventor.

The declaration filed June 16, 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 1745 in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ZHAOYU WANG
#4 JOHN BRICKER ROAD
CAMBRIDGE, ONTARIO
CANADA
N3H 4R8

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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of
Zhaoyu Wang, Stephan Lutz and
Karl Inglehart
Application No. 10/754,451
Filed: January 9, 2004
Attorney Docket No. 130109.465
Title: METHOD AND APPARATUS FOR
LOCATING INTERNAL TRANSFER LEAKS
WITHIN FUEL CELL STACKS

LETTER

Dear Mr. Wang:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/8/09 **Paper No.:** _____

TO SPE OF : ART UNIT 1795 Nguyen Nam (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/754453 Patent No.: 735501

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 **Art Unit** 1795

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OFFICE OF PETITIONS

KING & SPALDING
1180 PEACHTREE STREET , NE
ATLANTA GA 30309-3521

In re Application of	:
Kary B. Mullis	:
Application No. 10/754456	: ON REQUEST FOR
Filing or 371(c) Date: 01/09/2004	: RECONSIDERATION OF
Attorney Docket No.	: PATENT TERM ADJUSTMENT
13139-0104 (13721.105006)	:

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed September 17, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 570 days, not 274 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. The request for reconsideration is properly treated under 37 CFR 1.705(b).

As the request for reconsideration of patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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Johnson & Associates
317A E. Liberty Street
Savannah, GA 31401

Mail Date: 04/30/2010

Applicant	: Kary B. Mullis	: DECISION ON REQUEST FOR
Patent Number	: 7645743	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/754,456	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **567** 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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Lipsitz & McAllister, LLC
755 MAIN STREET
MONROE, CT 06468

Mail Date: 04/20/2010

Applicant	: Martin Schock	: DECISION ON REQUEST FOR
Patent Number	: 7640612	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/754,460	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1596** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SHEEHAN PHINNEY BASS & GREEN, PA
c/o PETER NIEVES
1000 ELM STREET
MANCHESTER NH 03105-3701

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OFFICE OF PETITIONS

In re Application of	:	
Blackmon et al.	:	
Application No.: 10/754469	:	ON PETITION
Filing or 371(c) Date: 01/09/2004	:	
Attorney Docket Number: 17224-6112	:	

This is a decision on the "Petition Under 37 CFR 1.182," filed on November 26, 2007, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors has been be changed as follows:

1. Lief Blackmon

2. James Petronio

This application is being referred to Technology Center Art Unit 2615 for continued examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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TODD A. SULLIVAN
HAYES SOLOWAY, P.C.
175 CANAL STREET
MANCHESTER, NH 03101

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Blackmon et al.	:	DECISION ON PETITION
Application No. 10/754,469	:	TO WITHDRAW
Filed: January 9, 2004	:	FROM RECORD
Attorney Docket No. 17224-6112	:	

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, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on December 30, 2005 the power of attorney to Hayes Soloway, P.C. 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: Sheehan Phinney Bass & Green, PA
c/o Peter Nieves
1000 Elm Street
Manchester NH 03105-3701

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ROBERT D. BUYAN
STOUT, UXA, BUYAN & MULLINS, LLP
SUITE 300
4 VENTURE
IRVINE CA 92618

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OFFICE OF PETITIONS

In re Application of	:	
Chuck et al.	:	
Application No. 10/754,479	:	ON PETITION
Filed: January 9, 2004	:	
Attorney Docket No. UCIVN-028A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 7, 2009, 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 Response to Restriction Requirement, (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 3738 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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PATRICK G. BURNS, ESQ.
GREER BURNS & CRAIN, LTD.
300 SOUTH WACKER DRIVE, SUITE 2500
CHICAGO, IL 60606

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DEC 15 2004

OFFICE OF PETITIONS

In re Application of	:
Minoru Kumagai et al	:
Application No. 10/754,482	: DECISION GRANTING PETITION
Filed: January 8, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2803.68989	:

This is a decision on the petition, filed December 6, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2835 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
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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ECOLAB INC.
MAIL STOP ESC-F7
655 LONE OAK DRIVE
EAGAN, MN 55121

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OFFICE OF PETITIONS

In re Application of
David W. Gohl, et al.
Application No. 10/754,491
Filed: January 9, 2004
Attorney Docket No. 163.1141US01

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Sarah M. Monfeldt on behalf of herself.

All other attorneys/agents associated with this application remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed July 17, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. None

EPSTEIN & GERKEN
1901 RESEARCH BOULEVARD
SUITE 340
ROCKVILLE MD 20850

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OFFICE OF PETITIONS

In re Application of
David C. Hacker, Stanley A. Skinner, Ensor E. Transfeldt, Peter P. Sterrantino, and Lionel Rupp
Application No. 10/754,493
Filed: January 12, 2004
Attorney Docket No. 2401.0146.US
Title: APPARATUS AND METHOD FOR INTRAOPERATIVE NEURAL MONITORING

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 14, 2004[2].

On January 12, 2004, the application was deposited with a declaration identifying David C. Hacker, Stanley A. Skinner, Ensor E. Transfeldt, Peter P. Sterrantino, and Lionel Rupp as joint inventors. The declaration had been executed by each of the joint inventors save Mr. Rupp. On April 14, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, as well as the surcharge associated with the late submission of an oath or declaration. This Notice set a two-month period for reply.

1A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 The petition contains a certificate of mailing dated October 12, 2004.

With the instant petition, Petitioner has submitted the petition fee and surcharge, as well as a four-month extension of time to make timely this response. Petitioner has set forth that non-signing inventor Rupp is deceased, and that his daughter is the legal representative. Petitioner has indicated that the legal representative of Ms. Rupp has made it clear that Ms. Rupp has refused to sign the declaration.

MPEP 409.03(c), sets forth, *in toto*:

Legal Representatives of Deceased Inventor Not Available:

37 C.F.R. §1.47 should not be considered an alternative to 37 C.F.R. §1.42 or 35 U.S.C. §117 since the language "cannot be found or reached after diligent effort" has no reasonable application to a deceased inventor[3]. However, 37 C.F.R. §1.47 does apply where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given[4].

Petitioner has met requirements (1) – (3) above.

Regarding the fourth requirement, it does not appear that a complete copy of the application papers was sent to the legal representative of the non-signing inventor. Where a refusal of the inventor to sign the application papers is alleged, the Office requires the Petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration[5]. Since the non-signing inventor is dead, the Office requires these materials to be sent to his legal representative. On renewed petition, it should be established that a complete copy of the application was sent to the legal representative of the non-signing inventor, Ms. Rupp (through her counsel).

It follows that since it has not been shown that a complete copy of the application was sent to the legal representative of the non-signing inventor, one cannot refuse to sign something which one has not seen. A refusal by the legal representative of the non-signing inventor to sign an oath or declaration when the same has not been presented with the application papers does not itself suggest that she is refusing to join the application unless it is clear that she understands exactly what she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the legal representative of the non-signing inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that she is apprised of the application to which the oath or declaration is directed[6].

Regarding the fifth requirement, the declaration cannot be accepted as it fails to contain the last known address of the deceased inventor and the citizenships of both the deceased inventor and his legal representative[7].

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3 In re Application Papers Filed September 10, 1954, 108 USPQ 340 (Comm'r Pat. 1955). See 37 C.F.R. §1.42 and MPEP § 409.01.
4 See MPEP §409.03(e)
5 See MPEP 409.03(d).
6 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

7 See 37 C.F.R. §§1.63 and 1.64.

For the above reasons, the petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(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.

Any renewed petition may be submitted by mail[8], hand-delivery[9], or facsimile[10].

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

8 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

9 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

10 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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ROCKVILLE MD 20850

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OFFICE OF PETITIONS

In re Application of
David C. Hacker, Stanley A. Skinner, Ensor E. Transfeldt, Peter P. Sterrantino, and Lionel Rupp
Application No. 10/754,493
Filed: January 12, 2004
Attorney Docket No. 2401.0146.US
Title: APPARATUS AND METHOD FOR INTRAOPERATIVE NEURAL MONITORING

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(A)

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed September 27, 2005.

On January 12, 2004, the application was deposited with a declaration identifying David C. Hacker, Stanley A. Skinner, Ensor E. Transfeldt, Peter P. Sterrantino, and Lionel Rupp as joint inventors. The declaration had been executed by each of the joint inventors save Mr. Rupp. On April 14, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, as well as the surcharge associated with the late submission of an oath or declaration. This Notice set a two-month period for reply.

1A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

The original petition was submitted on October 14, 2004, and was dismissed via the mailing of a decision on May 31, 2005, for failing to establish that a complete copy of the application was sent to the legal representative of the deceased non-signing joint inventor, and for failure to submit an acceptable declaration.

With this renewed petition, an acceptable declaration has been provided, and it has been established that a complete copy of the application has been sent to the legal representative of the deceased non-signing joint inventor.

Therefore, the renewed petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given on 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
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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CRYSTAL CITY STATION
ARLINGTON VA 22215

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JUN 0 9 2008

In re Application of	:	
Ivan Johnson	:	
Application No. 10/754,513	:	DECISION ON PETITION
Filed: January 12, 2004	:	
Attorney Docket No. 23583.00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of October 19, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 20, 2007. A Notice of Abandonment was mailed on April 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 an amendment and specification, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 3764 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

McKenna Long & Aldridge LLP
1900 K Street, NW
Washington, D.C. 20006
Voice: (202) 496-7500
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McKenna Long & Aldridge LLP
1900 K Street, NW
Washington, D.C. 20006
Voice: (202) 496-7500
Fax: (202) 496-7756

Date: January 4, 2005

To:

Name/Company	Fax No.	Phone No.
Examiner Qi U.S. Patent Office	(571) 273-2299	(571) 272-2299

From: Rebecca Goldman Rudich/E. Shavers **Phone:** (202) 496-7463

Re: Application No. 10/754,532

Number of Pages (including cover): 3

Message:

U.S. Pat. Appln No. 10/754,532
Filed: January 12, 2004
Title: Reflective and Transflective Liquid Crystal Display Device and its Manufacturing Method
Inventor(s): Dong Guk KIM et al.

User No.	579	Client/Matter No.:	8733.1008

If transmission is unclear or incomplete, please call sender at the above phone number.

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SUWON-SHI, KYONGGI-DO
KOREA

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OFFICE OF PETITIONS

LETTER 8733.475

TMA

In re Application of
Kim, et al.
Application No.: 09/893,557
Filed: June 29, 2001
Attorney Docket No.: 8733.475.00
For: REFLECTIVE AND TRANSREFLICTIVE LIQUID CRYSTAL DISPLAY DEVICE AND ITS MANUFACTURING METHOD

Dear Mr. Kim:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

DJC

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LONG ALDRIDGE & NORMAN

ATTORNEY OF RECORD: LONG ALDRIDGE & NORMAN, LLP
701 PENNSYLVANIA AVENUE N.W.
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WASHINGTON DC 20004

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LONG ALDRIDGE & NORMAN, LLP
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In re Application of
Kim, et al.
Application No.: 09/893,557
Filed: June 29, 2001
Attorney Docket No.: 8733.475.00
For: REFLECTIVE AND TRANSREFLICTIVE LIQUID CRYSTAL DISPLAY DEVICE AND ITS MANUFACTURING METHOD

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

TMA

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 24, 2002.

The petition is granted.

Petitioners have shown that the non-signing inventor, Yong Beom Kim, cannot be located. Specifically, the declaration of Seung K. Lee and accompanying exhibits establish that despite a number of attempts to locate Mr. Kim, Mr. Kim could not be found. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The November 27, 2001 dismissal of the October 16, 2001 petition set a two month extendable period for filing a reconsideration petition. The instant petition was filed on April 24, 2002. Pursuant to petitioners' authorization, deposit account no. 50-0911 will be charged $920.00 for a three month extension of time.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

DJC

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OFFICE OF PETITIONS

In re Patent No. 7,450,643 :
Issued: November 11, 2008 :
Application No. 10/754,535 : PATENT TERM ADJUSTMENT
Filed: January 12, 2004 :
Dkt. No.: 247444US-2SRD CONT :

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.705(d) AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed December 19, 2008.

The request for reconsideration of patent term adjustment (PTA) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,450,643 on November 11, 2008. The patent issued with a PTA 994 days. The request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the adjustment be increased from 994 days to 1,257 days.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees contend that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day. Patentees' calculation of adjustment asserts that the following adjustments do not overlap: a three year delay by the Office, pursuant to 37 CFR 1.703(b), of 263 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 1,077 days. The 263-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on January 12, 2004, and the patent having been issued on November 11, 2008. Patentees assert that in addition to this 263-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 1,077 days.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of three years delay and the period of examination delay, to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that only a portion of the three year delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1,340 days (deemed by applicants to be the sum of the period of three year delay (669 days) and the period of examination delay (1,077 days), reduced by 406 days of overlap). As such, patentees assert entitlement to a patent term adjustment of 1,257 days (669 days *plus* 1,077 days *less* 406 days of overlap *less* 83 days of applicant delay).

The Office agrees that as of the time that at the time of issuance of the patent, the application was pending three years and 669 days after its filing date. The three years delay commences the day after the date that is three years after the date that an application is filed, and ends the date that the patent issues, notwithstanding any periods of time excluded pursuant to U.S.C. 154(b)(1)(B)(i)-(iii). The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 1,077 days is correct. At issue is whether patentees should accrue an additional 669 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 1,077 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 669 days of delay in issuing the patent overlaps with the period of examination delay of 1,077 days. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual

> filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). *See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)),

> the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See, 145 Cong. Rec. S14,718[1].

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(A) is the entire period during which the application was pending before the Office, January 12, 2004, to the date the patent issued on November 11, 2008. Prior to the issuance of the patent, 1,077 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 669 days for Office delay in issuing the patent overlap with the 1,077 days of Office delay. During that time, the issuance of the patent was delayed by 1,077 days. The Office did not delay 1,077 days and then delay an additional 669 days. Accordingly, as the 669 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 1,077 days attributable to grounds specified in § 1.702(a), entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the required application fee of $200.00. The fee will not be refunded, as requested, as submission of the patent term adjustment application fee is required per 37 CFR 1.18(e).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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In re Application of	:
Simon Robert Walmsley	:
Application No. 10/754,536	: DECISION ON PETITION
Filed: 12 January, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PEA25US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 26 May, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2122 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Frances Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/754,536	01/12/2004	2191	770	PEA25US	331	17	2

CONFIRMATION NO. 9210

CORRECTED FILING RECEIPT

OC000000020474934

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NSW 2041
AUSTRALIA

Date Mailed: 09/18/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Simon Robert Walmsley, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 10/727,251 12/02/2003

Foreign Applications

AUSTRALIA 2002953134 12/02/2002
AUSTRALIA 2002953135 12/02/2002

If Required, Foreign Filing License Granted: 04/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/754,536

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Multi-level boot hierarchy for software development on an integrated circuit

Preliminary Class

717

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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BALMAIN 2041 AU AUSTRALIA

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JUN 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Walmsley, Simon Robert	:	
Application No. 10/754,536	:	DECISION ON PETITION
Filed: January 12, 2004	:	
Attorney Docket No. PEA25US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The 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 Terminal Disclaimer, (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 2136 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

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DEC 28 2006

OFFICE OF PETITIONS

In re Application of :
Jae-Bon Koo, et al. :
Application No.: 10/754,546 : ON PETITION
Filed: January 12, 2004 :
Attorney Docket No.: 61610118US :

This is a decision on the petition, filed December 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 13, 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 2871 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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Phoenix, AZ 85012

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OFFICE OF PETITIONS

In re Application of Longgui Wang, et. al. Application No. 10/754,547 Filed: January 12, 2004 Attorney Docket No. 15741.004	: : : : : :	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 8, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from one of the inventors that he is over the age of 65. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3226.

The application is being forwarded to the Technology Center Art Unit 1614, for action on the merits commensurate with this decision.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

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Foley and Lardner
3000 K Street, N. W.
Suite 500
Washington, DC 20007

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OFFICE OF PETITIONS

In re Application of :
Takashi Kamei, et al. :
Application No. 10/754,552 : ON PETITION
Filed: January 12, 2004 :
Attorney Docket No. 017700-0158 :

This is a decision on the petition, filed December 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3223.

The application is being referred to Technology Center AU 2833 for processing of the request for continued examination under 37 CFR 1.114

Marianne E. Jenkins
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 must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. The request and pertinent attachments should be addressed to **Box Issue Fee.** Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to request in writing that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Date : December 23, 2004

To : Director, Office of Patent Publication

From : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue

Applicant(s) : Takashi Kamei, et al.
Application No. : 10/754,552
Filed : January 12, 2004

The above-identified application has been assigned Patent No. 6,837,752 and an issue date of January 4, 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 application is published in the OG of January 4, 2005:

> "All reference to Patent No. 6,837,752 to Takashi Kamei of Kyoto-shi, Japan for SENSOR SYSTEN AND CONNECTOR USED THEREFOR appearing in the Official Gazette of January 4, 2005 should be deleted since no patent was granted."

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Janet Higgins, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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OFFICE OF PETITIONS

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

In re Application of
Gi Seop Lee, et al.
Application No. 10/754,579
Filed: January 12, 2004
Attorney Docket No. P24762

ON PETITION

This is a decision on the petition, filed June 30, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3744 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : June 30, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Gi Seop Lee, et al.
Application No. : 10/754,579
Filed : January 12, 2004

The above-identified application has been assigned Patent No. 6,918,265 and an issue date of July 19, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 19, 2005:

> "All reference to Patent No. 6,918,265 to GI SEOP LEE, ET AL. of REPUBLIC OF KOREA for AIR CONDITIONING SYSTEM appearing in the Official Gazette of July 19, 2005, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-44I (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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OFFICE OF PETITIONS

In re Application of
Gi Seop Lee, et al.
Application No. 10/754,579
Filed: January 12, 2004
Attorney Docket No.: P24762

ON PETITION

This is a decision on the petition, filed May 1, 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 11, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3744 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OCT 25 2005

MILLEN, WHITE, ZELANO & BRANIGAN, PC
2300 CLARENDON BLVD
SUITE 1400
ARLINGTON, VA 22201

In re Application of	:
Richard A. Schumaker et al	:
Serial No.: 10/361,634	: PETITION DECISION
Filed: February 11, 2003	:
Attorney Docket No.: MEMORY-1 D1	:

This is in response to a second petition under 37 CFR 1.144, filed September 6, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history was set forth in the previous decision, but is repeated herein for purposes of this decision. The prosecution history shows that this application was filed under 35 U.S.C. 111 on February 11, 2003, and contained claims 1-59. In a first Office action, mailed September 11, 2003, the examiner required restriction between the inventions claimed, as follows:

Group I – Claims 1-19, 25, 31, 37-39 and 41-59 (all in part) drawn to compounds, pharmaceutical compositions and method of treating wherein R1 is an alky (sic alkyl) group, R2 is a cycloalkyl, R3 is an arylalkyl and R4 is an aryl group;

Group II – Claims 1-59 (in part) drawn to compounds, compositions and methods of treating where the definitions are different for R1, R2, R3, R4 than those in Group I.

An election of species was also required for Group II.

The examiner reasoned that the inventions were distinct based on the wide variety of definitions for R1-R4 which give rise to many permutations and combinations and a reference anticipating one species would not anticipate or render obvious another. Very old (and no longer relied upon) case law was cited. The examiner also indicated that a telephone interview with Mr. John Saab had been conducted in which the invention of Group I was elected and the species of compound d, page 66, line 11, elected. No prior art on the species was found and applicants were requested to cancel the non-elected subject matter.

Applicants replied on December 11, 2003, amending a number of claims and adding claims 60-86. Applicants traversed the restriction requirement by arguing that all claims are within the scope of the generic claim and restriction is improper. Applicants argued that the examiner failed to show that the two Groups identified were unrelated or not capable of use together nor why the Groups are not classified together. Further argued was that the division appeared to be arbitrary with no reasons given to justify the division.

The examiner mailed a new Office action to applicants on March 1, 2004, maintaining the restriction requirement maintaining that there was no unity in the core itself. The examiner also argued that merely because they have the same properties they need not necessarily be grouped together. The examiner then added two additional groups to the restriction requirement, restricting Group I to claims 1, 3, 5-6, 8-16, 18, 41-48, 52-56 and 60-86 drawn to compounds, compositions and methods for treating cognition impairment.

Group III was defined as claims 49-51, drawn to other methods of treating.

Group IV was drawn to claim 57 compounds which were indicated as being outside the scope of the compounds of the other claims.

(Note – no Group II was set forth, but is presumed to be as in the first Office action.) The elected claims were indicated as allowable over the prior art.

An interview was held with the examiner on July 22, 2004, but agreement was not reached on all issues.

Applicants filed a formal reply on August 2, 2004, amending claims 18, 41 and 57, and canceling claims 2, 4, 7, 17, 19-40, 50-51 and 58-59. Applicants further traversed the previous and new restriction requirements as improper arguing that the examiner's argument that the core is not novel is in error since there is no requirement that the core be novel, only that the compounds of which the core is a part be novel. Applicants further argued that the examiner's attempts to limit the claims amounted to an improper restriction within a claim or improper rejection. Applicants urged the examiner to follow M.P.E.P. 803.02 in examining a claim in which an election of species has been required.

The examiner mailed a Final Office action to applicants on December 7, 2004, maintaining the withdrawal of claim 57 only. Claims 1, 63-64 (or 68-69) and 83-84 were rejected under 35 U.S.C. 112, first paragraph as lacking enablement, with all other claims being found allowable, but objected to.

Applicants filed a reply to the Office action on March 7, 2005, objecting to the finality of the Office action in view of new rejections made not necessitated by applicants' amendments. Applicants continued the traversal of the restriction requirement, especially with respect to claim 57. Applicants also addressed the rejections of record.

Applicants filed a first petition on March 9, 2005, requesting withdrawal of an improper restriction requirement. A petition decision was mailed to applicants on June 2, 2005, directing the examiner to withdraw the restriction requirement between claim 57 and the other claims to the compounds. It was stated that it appeared that the entire scope of the claims was being

examined as the only objection to the claims appeared to be based on claims depending from a rejected base or independent claim.

Subsequent to the decision the examiner mailed a new Final Office action to applicants on June 3, 2005, in which claim 57 was rejoined with the other claims. However, the examiner then stated that the claims contain non-elected subject matter. All other claim rejections were withdrawn. The examiner advised applicants to amend their claims to the elected scope.

Applicants filed a reply to the Office action and this petition on September 5, 2005. The reply has not been acted on by the examiner.

DISCUSSION

Applicants petition requests review of the restriction requirement as originally set forth which now appears in view of the examiner's action to not have been withdrawn as stated in the previous petition decision. As noted above, the first Office action divided the claims into two groups following a telephone "election of species" requirement made by the examiner. A review of the manner in which the requirement is set forth shows that what is purported to be a restriction requirement is actually an election of species requirement in which the examiner has examined the species and found it allowable and has expanded the "scope" of the species to create effectively a subgenus of the full genus set forth in the Markush group and limited examination to only the created subgenus. Such is improper. While the examiner states that the "restriction" requirement is supported by the burden placed on the Office of examining the large Markush group, such reasoning is improper under M.P.E.P. 803.02.

A review of claim 1 shows that a substituted benzene is claimed. The substituents are two alkoxy radicals ortho to each other and an amino group para to one of the alkoxy groups. The four radicals of the three groups are generally alkyl or cyclic alkyl groups, but may involve additional substitution. However, the various species evidence a common core (the substituted benzene ring) and are alleged to have a utility associated with the core structure thus satisfying the criteria set forth in M.P.E.P. 803.02 for making an election of species requirement. When such a requirement is made, the guidelines of M.P.E.P. 803.02 are required to be followed. Creation of a subgenus based on the elected species is not permitted. In view of the above, the restriction requirement between original Groups I and II is deemed to be an election of species requirement and the examiner's requirement to limit the claims to the subgenus determined by the examiner is withdrawn.

DECISION

The petition is **GRANTED.**

In view of the above decision, the Finality of the last Office action is withdrawn. Further, the original "restriction" requirement is found to have been an "election of species" requirement for which the guidelines of M.P.E.P. 803.02 must be followed. As applicants have timely replied to the Office action the application will be forwarded to the examiner

for consideration of applicants' reply and further action commensurate with an election of species requirement of the above decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Schumacher et al.	:	DECISION ON APPLICATION
Application No. 10/754,600	:	FOR
Filed: January 12, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. MEMORY-0001-D2	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)," filed November 1, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from ten (10) days to fifty-four (54) days.

The application for patent term adjustment at the time of mailing of the notice of allowance is **GRANTED to the extent indicated herein**.

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 seventy-five **(75)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 1, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 10 days. On November 1, 2006, applicants timely submitted the instant application for patent term adjustment[1]. Applicants traverse the patent term adjustment delay of 44 days assessed against applicants for the PAIR entry: 1-20-2006 Information Disclosure Statement (IDS). Applicants state that the papers filed were not IDSs, but were courtesy

[1] PALM records indicate that the Issue Fee payment was also received on November 1, 2006.

copies of references cited in a prior IDS. Further, the filing of these copies was expressly requested by the examiner.

With respect to the papers filed January 20, 2006, the record supports applicants' contention. The papers filed that date are copies of references submitted at the request of the examiner. As such, the period of reduction of 44 days pursuant to 37 CFR 1.704(c)(8) is not warranted and is being removed.

A review of the record further reveals that on August 5, 2005, a restriction requirement vacating the July 15, 2005 restriction requirement was mailed. In this instance, the August 5, 2005 date will be used in calculating the period of adjustment under § 1.702(a)(1). Thus, this period of adjustment is corrected from 125 days to 146 days, counting the number of days beginning on March 13, 2005 and ending on August 5, 2005. (The other periods of reduction of record totalling 71 days are not in dispute).

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is seventy-five (75) days (146 - 71).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

PALM INTRANET

Day : Monday
Date: 3/5/2007
Time: 07:30:15

PTA Calculations for Application: 10/754600			
Application Filing Date:	01/12/2004	PTO Delay (PTO):	125
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	115
Post-Issue Petitions:	0	Total PTA (days):	75
PTO Delay Adjustment:	65		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
73	03/05/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		125	
72	03/05/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	146		
71	03/05/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	44		
61	08/01/2006	MAIL NOTICE OF ALLOWANCE			
60	07/19/2006	ISSUE REVISION COMPLETED			
59	07/19/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	07/19/2006	CASE DOCKETED TO EXAMINER IN GAU			
57	07/19/2006	NOTICE OF ALLOWABILITY			
56	01/20/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
55	07/07/2006	DATE FORWARDED TO EXAMINER			
54	06/27/2006	AMENDMENT AFTER FINAL REJECTION		56	44
53	06/27/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
52	06/27/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
49	05/12/2006	MAIL ADVISORY ACTION (PTOL - 303)			
48	05/11/2006	ADVISORY ACTION (PTOL-303)			
47	05/08/2006	DATE FORWARDED TO EXAMINER			
46	05/02/2006	AMENDMENT AFTER FINAL REJECTION			
45	01/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		44	35
44	02/02/2006	MAIL FINAL REJECTION (PTOL - 326)			
43	01/31/2006	FINAL REJECTION			
42	12/07/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	08/30/2005	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
40	04/01/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	02/13/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	12/07/2005	REFERENCE CAPTURE ON IDS			
37	12/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	01/05/2006	DATE FORWARDED TO EXAMINER			
35	12/07/2005	RESPONSE AFTER NON-FINAL ACTION			
34	11/18/2005	CORRESPONDENCE ADDRESS CHANGE			
33	08/30/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		15	29
32	09/07/2005	MAIL NON-FINAL REJECTION			
31	09/02/2005	NON-FINAL REJECTION			
30	08/24/2005	DATE FORWARDED TO EXAMINER			
29	08/15/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
28	08/05/2005	MAIL RESTRICTION REQUIREMENT			
27	08/04/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
26	08/02/2005	DATE FORWARDED TO EXAMINER			
25	07/27/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
24	07/15/2005	MAIL RESTRICTION REQUIREMENT	125		-1
23	07/14/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
22	06/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	04/04/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	04/01/2004	REFERENCE CAPTURE ON IDS			
19	04/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	02/13/2004	REFERENCE CAPTURE ON IDS			
17	02/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	12/08/2004	PRELIMINARY AMENDMENT			
15	04/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	12/08/2004	PRELIMINARY AMENDMENT			
13	08/09/2004	APPLICATION RETURN FROM OIPE			
12	08/09/2004	APPLICATION RETURN TO OIPE			
11	08/07/2004	APPLICATION RETURN FROM OIPE			
10	08/09/2004	APPLICATION IS NOW COMPLETE			

9	04/22/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
8	04/22/2004	APPLICATION RETURN TO OIPE			
7	04/21/2004	APPLICATION DISPATCHED FROM OIPE			
6	04/22/2004	APPLICATION IS NOW COMPLETE			
5	03/15/2004	CLEARED BY L&R (LARS)			
4	03/03/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	03/03/2004	CASE CLASSIFIED BY L&R			
2	01/28/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/12/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Back to PALM | ASSIGNMENT | OASIS | Home page

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

MAILED

JUL 12 2010

OFFICE OF PETITIONS

In re Patent No. 6,884,141 :
Issue Date: April 26, 2005 :
Application No. 10/754,616 :
Filed: January 12, 2004 :
Attorney Docket No. 041501-5435-01 :

DECISION ON PETITION

This is a decision on the Request For Certificate Of Correction, filed April 29, 2010, which is being treated as a Petition Under 37 CFR 3.81(b) to accept the omission of the second and third assignees' names. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the omission of the second and third assignees' names on the previously submitted PTOL-85B. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second and third assignees' names to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.17(i) have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 that accompanied the petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

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 in U.S. Patent No. 6,884,141.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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DORSEY & WHITNEY LLP
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SEATTLE, WA 98101

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OCT 20 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Simon J. Lovett et al :
Application No. 10/754,658 :
Filed: January 8, 2004 :
Attorney Docket No. 501126.03 (30141/US/2)

This is a decision on the petition, filed October 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 September 2, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2824 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).

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Santa Clara, CA 95050

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NOV 07 2005

TECHNOLOGY CENTER 2100

In re Application of: Shavit, et al.
Application No. 10/754,677
Filed: January 9, 2004
For: SECURE ACCESS AND COPY PROTECTION MANAGEMENT SYSTEM

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed September 8, 2005, under 37 C.F.R. 1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. 1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. 1.17(h) and a statement under 37 C.F.R. 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that: (A) there is an infringing device or product actually on the market or method in use; (B) 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) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Applicant ***must provide*** one copy of each of the ***references deemed most closely related*** to the subject matter encompassed by the claims [*emphasis added*].

Applicant's submission of September 8, 2005, indicated to have been provided with copies of "material references" is deficient as no indication has been made as to which reference(s), submitted with the information disclosure statement filed simultaneously therewith, are deemed to be those "most closely related", as is required. In addition, a copy of cited reference EP 0 933 765 A1 (Ricoh Company) on the attached PTO/SB/08A has not reached the file.

Accordingly, the Petition is **DISMISSED**.

The application file will be returned to the examiner's docket and examined in its proper turn based on its effective filing date.

If petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at (571) 272-3595.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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TECHNOLOGY CENTER 2100

In re Application of:
Eyal SHAVIT et al.
Application No. 10/754,677
Filed: January 9, 2004
For: SECURE ACCESS AND COPY PROTECTION MANAGEMENT SYSTEM

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed September 08, 2005 under 37 C.F.R. § 1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. § 1.102(d), and M.P.E.P. § 708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. § 1.17(h) and a statement under 37 C.F.R. § 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) 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) 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 prior art. Applicant must provide one copy of each of the ***references deemed most closely related*** to the subject matter encompassed by the claims.

Applicant's submission meets all the criteria set out above. Accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3613

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TECHNOLOGY CENTER 2100

In re Application of:
Eyal SHAVIT et al.
Application No. 10/754,677
Filed: January 9, 2004
For: SECURE ACCESS AND COPY PROTECTION MANAGEMENT SYSTEM

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a clarifying decision on the petition, filed September 08, 2005 under 37 C.F.R. § 1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special. A review of the record indicates that a previous decision mailed September 28, 2005 (copy attached hereto) granted the petition to make special filed Sept. 8, 2005. The decision mailed on November 7, 2005 in error is hereby vacated in lieu of this clarifying decision.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. § 1.102(d), and M.P.E.P. § 708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. § 1.17(h) and a statement under 37 C.F.R. § 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) 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) 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 prior art. Applicant must provide one copy of each of the ***references deemed most closely related*** to the subject matter encompassed by the claims.

Applicant's statement in the petition filed September 8, 2005 indicating to have been provided with copies of "material references" is taken to be that those references submitted with the information disclosure statement filed simultaneously therewith, are those deemed to be the "most closely related", as is required. In addition, a copy of cited reference EP 0 933 765 (Ricoh Company) ***has not reached the file***. Applicant should provide a copy of such reference to the Examiner, in response to this decision granting the petition to make special.

Applicant's submission meets all the criteria set out above. Accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

for

Vincent N. Trans
Special Program Examiner, Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3613

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Eyal SHAVIT et al.
Application No. 10/754,677
Filed: January 9, 2004
For: SECURE ACCESS AND COPY PROTECTION MANAGEMENT SYSTEM

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed September 08, 2005 under 37 C.F.R. § 1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. § 1.102(d), and M.P.E.P. § 708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. § 1.17(h) and a statement under 37 C.F.R. § 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) 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) 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 prior art. Applicant must provide one copy of each of the ***references deemed most closely related*** to the subject matter encompassed by the claims.

Applicant's submission meets all the criteria set out above. Accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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HOLLAND & HART, LLP
P.O BOX 8749
DENVER CO 80201

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JUN 07 2010
OFFICE OF PETITIONS

In re Patent No. 6,960,129	:	
Issue Date: November 1, 2005	:	
Application No. 10/754,678	:	ON PETITION
Filed: January 9, 2004	:	
Attorney Docket No. 33897/US	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 31, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight November 1, 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).

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Shane P. Coleman appearing on the petition shall constitute a representation to the United States Patent and trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts.

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 JoAnne Burke at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

SPE: A. Zarabian

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/17/06

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/254,286 Patent No.: 7023743

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.

VIET Q. NGUYEN
PRIMARY EXAMINER

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: Changes in spec to correct minor spelling errors only

SPE

2827
Art Unit

IPE IAP56 2 4 2006 PATENT & TRADEMARK OFFICE

Docket No.: M4065.0509/P509 B
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Hasan Nejad et al.

Patent No.: 7,023,743

Issued: April 4, 2006

For: STACKED COLUMNAR 1T-NMTJ MRAM STRUCTURE AND ITS METHOD OF FORMATION AND OPERATION

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.322 & 1.323

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

OK TO enter V.N Exm. 8/28/06

Dear Sir:

Upon reviewing the above-identified patent, Patentees noted typographical errors which should be corrected.

In the Specification, Applicants made the following errors to be corrected:

Column 1, line 48, "levels" should read --level--.

Column 2:

07/26/2006 MBEYENE1 00000058 7023743
01 FC:1811 100.00 OP

Line 23, "2a" should read --2A--;

2006

Line 26, "2b" should read --2B--;

Line 28, "2a" should read --2A--;

Line 29, "2c" should read --2C--;

Line 31, "2a" should read --2A--;

Line 32, "2d" should read --2D--;

Line 33, "2a" should read --2A--; and

Line 35, "2a-d" should read --2A-D--.

Column 3:

Line 5, "2a ... 2d" should read --2A ... 2D--;

Line 22, "2a, 2b, 2c and 2d" should read --2A, 2B, 2C and 2D--;

Line 29, "2a" should read --2A--; and

Line 36, "each access" should read --each of the access--.

Column 4:

Line 7, "2a" should read --2A--;

Line 14, "2a, 2b and 2c" should read --2A, 2B and 2C--;

Line 17, "2b" should read --2B--;

Line 29, "2d" should read --2D--; and

MAY 2 8 2006

Line 36, "2a-d" should read --2A-D--.

Column 5, line 47, "Each access" should read --Each of the access--.

Column 6, line 34, "2a-c" should read --2A-C--.

Column 7:

Line 16, "one source" should read --one of the source--; and

Line 51, "include" should read --includes--.

Column 8, line 13, "via to the" should read --via the--.

In the Specification, the PTO made the following errors to be corrected:

Column 4:

Line 22, "ath" should read --*a*th--; and

Line 23, "ath" should read --*a*th--.

In the Claims, Applicants made the following error to be corrected:

Column 10, line 9, "associated said" should read --associated with said--.

In the Claims, the PTO made the following errors to be corrected:

Claim 1, column 9, line 2, "an associated transistor" should read --a single associated transistor--; and

Claim 5, column 10, line 5, "an associated transistor" should read --a single associated transistor--.

The Examiner's Amendment dated December 12, 2005 required Applicants to insert the word "single" after the word "an" and before the word "associated transistor" in claims 62 and 66. Those claims are mapped to claims 1 and 5.

The errors were found in the application as filed by Applicants and were made also by the PTO. Please charge our Credit Card in the amount of $100.00 covering the fee set forth in 37 CFR 1.20(a). Credit Card Payment Form SB-2038, with a signature from an authorized cardholder, is enclosed.

The errors now sought to be corrected are inadvertent typographical errors the correction of which does not involve new matter or require reexamination.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentees respectfully solicit the granting of the requested Certificate of Correction.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1073, under Order No. M4065.0509/P509 B.

Dated: July 24, 2006

Respectfully submitted,

By_____

Thomas J. D'Amico
Registration No.: 28,371
Michael A. Weinstein
Registration No.: 53,754
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403
(202) 420-2200
Attorneys for Applicants

2006

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,023,743

APPLICATION NO. : 10/784,786

ISSUE DATE : April 4, 2006

INVENTORS : Hasan Nejad et al.

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Specification, the following errors are corrected:

Column 1, line 48, "levels" should read --level--.

Column 2:

Line 23, "2a" should read --2A--;

Line 26, "2b" should read --2B--;

Line 28, "2a" should read --2A--;

Line 29, "2c" should read --2C--;

Line 31, "2a" should read --2A--;

Line 32, "2d" should read --2D--;

Line 33, "2a" should read --2A--; and

Line 35, "2a-d" should read --2A-D--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Thomas J. D'Amico
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403

JUN 2 8 2006

Column 3:

Line 5, "2a ... 2d" should read --2A ... 2D--;

Line 22, "2a, 2b, 2c and 2d" should read --2A, 2B, 2C and 2D--;

Line 29, "2a" should read --2A--; and

Line 36, "each access" should read --each of the access--.

Column 4:

Line 7, "2a" should read --2A--;

Line 14, "2a, 2b and 2c" should read --2A, 2B and 2C--;

Line 17, "2b" should read --2B--;

Line 22, "ath" should read --ath--;

Line 23, "ath" should read --ath--;

Line 29, "2d" should read --2D--; and

Line 36, "2a-d" should read --2A-D--.

Column 5, line 47, "Each access" should read --Each of the access--.

Column 6, line 34, "2a-c" should read --2A-C--.

Column 7:

Line 16, "one source" should read --one of the source--; and

Line 51, "include" should read --includes--.

Column 8, line 13, "via to the" should read --via the--.

In the Claims, the following errors are corrected:

Claim 1, column 9, line 2, "an associated transistor" should read --a single associated transistor--;

Claim 5, column 10, line 5, "an associated transistor" should read --a single associated transistor--; and

Claim 5, column 10, line 9, "associated said" should read --associated with said--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Thomas J. D'Amico
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403

10/784786

PTO/SB/17 (01-06)
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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2006

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 100.00

Complete if Known	
Application Number	Patent#: 7,023,743
Filing Date	Issued: April 4, 2006
First Named Inventor	Hasan Nejad
Examiner Name	V. Q. Nguyen
Art Unit	2827
Attorney Docket No.	M4065.0509/P509 B

METHOD OF PAYMENT (check all that apply)

☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☐ Deposit Account Deposit Account Number: 04-1073 Deposit Account Name: Dickstein Shapiro LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, **except for the filing fee**

☒ Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
Application Type	Fee ($)	Small Entity Fee ($)	Fee ($)	Small Entity Fee ($)	Fee ($)	Small Entity Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims		Extra Claims		Fee ($)		Fee Paid ($)
_____	- =	_____	x	_____	=	_____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims		Extra Claims		Fee ($)		Fee Paid ($)
_____	- =	_____	x	_____	=	_____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims

Fee ($)	Fee Paid ($)
_____	_____
_____	_____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets		Extra Sheets		Number of each additional 50 or fraction thereof		Fee ($)		Fee Paid ($)
_____	- 100 =	_____	/50	_____	(round up to a whole number) x	_____	=	_____

4. OTHER FEE(S) Fees Paid ($)

Non-English Specification, $130 fee (no small entity discount)

Other (e.g., late filing surcharge): 1811 Certificate of correction 100.00

SUBMITTED BY					
Signature		Registration No. (Attorney/Agent)	28,371	Telephone	(202) 420-2232
Name (Print/Type)	Thomas J. D'Amico			Date	July 24, 2006

Certificate JUL 28 2006

JUL 27 2006

of Correction JUL 28 2006

Nguyen, Viet

From: Zarabian, Amir
Sent: Thursday, August 31, 2006 8:21 AM
To: Nguyen, Viet
Subject: FW: 10784786

-----Original Message-----
From: Newsome, Lamonte
Sent: Thursday, August 31, 2006 8:18 AM
To: Zarabian, Amir
Subject: 10784786

Please review CofC in the (eDAN) Madras!!!

10784786

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

COPY MAILED

NOV 16 2006

OFFICE OF PETITIONS

In re Application of	:	
David C. Auth et al.	:	
Application No. 10/754,790	:	DECISION ON PETITION
Filing Date: 01/08/2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 571208001US2	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 29, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119 for the benefit of priority to the prior-filed provisional application set forth in the amendment filed May 2, 2005. This is also a decision on the petition under 37 CFR 1.182, filed October 26, 2006, to expedite the handling of the instant petition.

The petition under 37 CFR 1.182 is hereby **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is **GRANTED**.

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 U.S.C. § 119 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 Director may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119 and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3739 for appropriate action on the amendment filed May 2, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119 to the prior-filed application.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/754,790	01/08/2004	3739	2363	571208001US2	16	27	3

CONFIRMATION NO. 8857

CORRECTED FILING RECEIPT

OC000000021193924

25096
PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Date Mailed: 11/13/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

David C. Auth, Kirkland, WA;
Robert L. Barry, Kirkland, WA;
Joseph E. Eichinger, Everett, WA;
Bryan A. Kinsella, Seattle, WA;
Roger A. Sahm, Snohomish, WA;
Robert S. Schwartz, Rochester, MN;
Robert A. Van Tassel, Exelsior, MN;

Assignment For Published Patent Application

Coaptus Medical Corporation, Seattle, WA

Power of Attorney: The patent practitioners associated with Customer Number **25096**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/447,760 02/13/2003
and claims benefit of 60/474,055 05/28/2003

Foreign Applications

If Required, Foreign Filing License Granted: 04/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/754,790

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Transseptal closure of a patent foramen ovale and other cardiac defects

Preliminary Class

606

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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Mailed: AUG 24 2004

CST

In re application of	:	
Dan Duke et al	:	
Serial No. 10/754,797	:	DECISION ON
Filed: January 9, 2004	:	PETITION
For: COOLING WATER SCALE AND CORROSION INHIBITION	:	

This is a decision on the petition filed February 4, 2004 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

MATTHEW A. NEWBOLES
STETINA BRUNDA GARRED & BRUCKER
Suite 250
75 Enterprise
Aliso Viejo CA 92656

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Andrew H. Cragg	: DECISION ON REQUEST FOR
Patent Number	: 7621936	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/754,824	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **651** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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IMMUNEX CORPORATION
LAW DEPARTMENT
1201 AMGEN COURT WEST
SEATTLE, WASHINGTON 98119-3105

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OCT 01 2007

OFFICE OF PETITIONS

In re Application of	:	
Steven R. Wiley	:	
Application No. 10/754,847	:	DECISION GRANTING PETITION
Filed: January 8, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2968-D	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 25, 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 election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of April 4, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1643.

Karen Creasy
Petitions Examiner
Office of Petitions

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Paper No.

IMMUNEX CORPORATION
LAW DEPARTMENT
1201 AMGEN COURT WEST
SEATTLE WA 98119

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AUG 20 2009

OFFICE OF PETITIONS

In re Patent No. 7,507,807	:	
Wiley	:	DECISION DISMISSING
Application No. 10/754,847	:	REQUEST FOR
Issue Date: March 24, 2009	:	RECONSIDERATION OF
Filed: January 8, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.: 2968-US-DIV	:	UNDER 37 CFR § 1.705(d)
Title: TWEAK RECEPTOR	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(d)," filed on May 26, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred and ninety-two (492) to eight hundred and eighty-four (884) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 24, 2009, the application matured into U.S. Patent No. 7,507,807, with a revised patent term adjustment of 492 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

On May 26, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent.[1] Patentees argues, citing Wyeth v. Dudas, Civ. Action No. 07-1492 (JR), that it is entitled to a total patent term adjustment of 884 days, which is the sum of the 806 days of patent term adjustment due to exceeding the three year pendency plus 545 days due to USPTO delay in prosecution, minus 153 days of overlap minus the 314 days of

[1] It is noted that May 24, 2009 fell on a Sunday and May 25, 2009 fell on a federal holiday.

applicant delay, *i.e.*, that the revised determination of patent term adjustment indicated on the patent should be 884 days.

The 806-day period is calculated based on the application having been filed under 35 U.S.C. § 111(a) on January 8, 2004, and the instant patent issued on March 24, 2009, which is 3 years and 806 days after its filing date.

Under 37 CFR § 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR § 1.702 reduced by the period of time equal to the period of time during which Patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR § 1.704. In other words, the period of Office delay reduced by the period of applicant delay.

The period of reduction of 314 days for applicant delay is not in dispute.

The period of 545 days of Office delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (806 days) and the period of Examination Delay (545 days) to the extent that these periods of delay are not overlapping. However, Patentees contend the Three Year Delay period and the period of examination delay overlaps. Accordingly, Patentees submit that the total period of adjustment for Office delay is 1198 days, which is the sum of the period of Three Year Delay (806 days) and the period of Examination Delay (545 days), reduced by the period of overlap (153 days).

As such, Patentees assert entitlement to a patent term adjustment of 884 days (806 + 545 reduced by 153 overlap - 314 (applicant delay)).

The Office agrees that the application was pending 3 years and 806 days after its filing date. The Office agrees that an action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 806 days for Office delay is correct. At issue is whether Patentees should accrue 653 days of patent term adjustment for the Office taking in excess of three years to issue the patent (806 days less the 153 days of overlap), as well as 545 days for Office failure to take a

certain action within a specified time frame (or examination delay).

The Office contends that the entire 806-day period overlaps. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any

> additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 C.F.R. § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, January 8, 2004 to March 24, 2009. 545 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within specified time frames during the pendency of the application. All of the 806 days for Office delay in issuing the patent overlaps with the 545 days of Office delay. During that time, the issuance of the patent was delayed by 545 days, not (545 + 806 = 1351) days. Other than the periods of Office delay pursuant to 37 C.F.R. §§ 1.702(a)(1) and (a)(2) which total 545 days, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes.

Nonetheless, given the initial 545 days of Office delay and the 314 days of applicant delay and the time allowed within the time frames for processing and examination, as of the date of issuance of this patent, the application was pending three years

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[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

and 806 days. The Office did not delay 545 days and then an additional 806 days. Accordingly, 806 days of patent term adjustment (not 806 and 545 days) was properly entered since the entire period of delay of 806 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 545 days attributable to grounds specified in §§ 1.702(a)(1) and (a)(2). Entry of both periods is not warranted. 806 days is determined to be the actual number of days that the issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 261 additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

C. T. Donnell for

Anthony Knight
Supervisor
Office of Petitions

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[3] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

[3] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to –

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. –

(A) IN GENERAL. – To the extent that 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.

The implementing regulation, 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;

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(b) 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 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[4]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is 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 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day

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[4] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

> after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[5]:

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). 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. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

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[5] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

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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
10/754,849	01/09/2004	3653	900	225834	7	18	1

CONFIRMATION NO. 8904

UPDATED FILING RECEIPT

OC000000012841783

000023460
LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

Date Mailed: 06/02/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Shinichi Morita, Osaka, JAPAN;
Yoshinori Yama, Osaka, JAPAN;
Hideaki Mori, Osaka, JAPAN;

Assignment For Published Patent Application

Japan Mint, Osaka-shi, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 3648/2003 01/09/2003

If Required, Foreign Filing License Granted: 04/13/2004

Projected Publication Date: 09/09/2004

Non-Publication Request: No

Early Publication Request: No

Title

Coin-like products, identification method thereof and identification device thereof

Preliminary Class
194

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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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Bruce Chai :
Application No. 10/754,850 :
Filed: January 9, 2004 :
Attorney Docket No. 59950 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed July 27, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on January 5, 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 months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Technology Center 2100

HOGAN & HARTSON L.L.P.
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SUITE 1900
LOS ANGELES, CA 90071-2611

In re Application of: Makio MIZUNO
Application No. 10/754,857
Filed: January 9, 2004
For: DISK CONTROL UNIT

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed February 15, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed February 15, 2005 fails to adequately meet requirements (b) and (d) of the criteria set forth above. With respect to requirement (b), applicant fails to make a 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." Per requirement (d), the discussed reference identified as Japanese App. No. 2002-371864 has not been included in any of the previously submitted Information Disclosure Statements. Applicant should submit an Information Disclosure Statement (PTO-1449 or PTO-SB08A) to ensure consideration of all 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. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner 4/29/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

SDL: 04/22/05

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TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: MIZUNO
Application No. 10/754,857
Filed: January 9, 2004
For: DISK CONTROL UNIT

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 12 July 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 15 February 2005. The petition was dismissed for failure to provide 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 claims are not obviously directed to a single invention" and for failure to provide a copy of Japanese App. No. 2002-371864.

Applicants' submission filed 12 July 2005 corrects the deficiencies noted in the original decision. The combined submissions meet all the criteria set out above. The required statement has been provided and applicant has explained that the reference was identified as Japanese Patent Application No. 2002-371864 in the petition but as reference number 2003-248630 in the Information Disclosure Statement. A copy of the reference has been provided. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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OFFICE OF PETITIONS

In re Application of
Kenneth N. Han :
Application No. 10/754,877 : DECISION ON
Filed: January 9, 2004 : PETITION
Attorney Docket No. SDSM 1036050 :

This is in response to the petition to revive under 37 CFR 1.137(b), filed May 3, 2006.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on January 10, 2006. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on April 11, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of the issue fee, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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ROBERTS ABOKHAIR & MARDULA
SUITE 1000
11800 SUNRISE VALLEY DRIVE
RESTON, VA 20191

COPY MAILED

JUL 12 2006

OFFICE OF PETITIONS

In re Application of	:
Morton M. Mower	:
Application No. 10/754,887	: DECISION ON PETITIONS
Filed: January 10, 2004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 2206-012	:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed by facsimile transmission on January 27, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

This nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, this application

was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/439,206, which was filed on January 10, 2003, for which priority is claimed.

37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require 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. 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) and 1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3762 for appropriate action on the amendment submitted January 27, 2006, including consideration by the examiner of the claim for benefit under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Any questions concerning this matter may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/754,887	01/10/2004	3762	1737	2206-012	5	77	21

CONFIRMATION NO. 8091

CORRECTED FILING RECEIPT

OC000000019514707

22208
ROBERTS ABOKHAIR & MARDULA
SUITE 1000
11800 SUNRISE VALLEY DRIVE
RESTON, VA 20191

Date Mailed: 07/07/2006

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)

Morton M. Mower, Baltimore, MD;

Power of Attorney:

John Abokhair--30537
Jon Roberts--31293
Kevin Pontius--37512
Christopher Kilner--45381
Timothy Graves--45940
Janeen Vilven--47156
Elliott Light--51948

Domestic Priority data as claimed by applicant

This application is a CIP of 09/929,478 08/14/2001 PAT 6,895,274
which is a CON of 09/231,570 01/14/1999 PAT 6,295,470
which is a CIP of 08/699,552 08/19/1996 PAT 5,871,506
This application 10/754,887
is a CIP of 10/053,750 01/21/2002
which is a CON of 09/690,947 10/18/2000 PAT 6,341,235
which is a CIP of 09/008,636 01/16/1998 PAT 6,136,019
which is a CIP of 08/699,552 08/19/1996 PAT 5,871,506
This application 10/754,887
claims benefit of 60/439,206 01/10/2003

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 US10/754,887

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

System and method for breaking reentry circuits by cooling cardiac tissue

Preliminary Class

607

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

KRIEGSMAN & KRIEGSMAN
30 TURNPIKE ROAD, SUITE 9
SOUTHBOROUGH MA 01772

In re Application of
Hseih, et al.
Application No. 10/754,893
Filed: January 9, 2004
Atty. Dkt. No.: 82178

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 28, 2010.

The petition is **GRANTED**.

This application became abandoned March 1, 2010 for failure to timely submit a proper reply to the Notice of Allowance and Issue Fee Due (Notice) mailed November 30, 2009. The Notice set a three (3) month statutory period of time for reply. A reply, including the issue fee and publication fee were submitted March 12, 2010. However, the check upon which the fees were drawn bounced. Notice of Abandonment was mailed March 23, 2010.

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 has been carefully reviewed and found in compliance with the requirements set forth above.

Fees under 37 CFR 1.19, 1.20, and 1.21 will not be charged as a result of a general authorization under 37 CFR 1.25 except to cover the processing fee under 37 CFR 1.21(m) in the event a check or credit card payment is refused or charged back by a financial institution. See, MPEP 509.01.

Accordingly, as a result of the bounced check, the required $50.00 processing fee has been charged to the authorized deposit account.

In view thereof, this application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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MONIQUE SHONKA
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Uhrich et al.	:	DECISION ON PETITION
Application No. 10/754,900	:	TO WITHDRAW
Filed: January 9, 2004	:	FROM RECORD
Attorney Docket No. 01435.022US1	:	

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 24, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on May 1, 2006 the power of attorney to Schwegman, Lundberg & Woessner, P.A. 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: Viksnins Harris & Padys PLLP
P.O. Box 111098
St. Paul MN 55111-1098

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OCT 08 2004

Walter W. Duft
Suite 10
10255 Main Street
Clarence NY 14031

In re Application	:	
Syde A. Taheri	:	
Serial No.: 10/754,919	:	DECISION ON PETITION
Filed: January 10, 2004	:	
For: Temporary Absorbable Venous	:	
Occlusive Stent and Superficial Vein	:	
Treatmnt Method	:	

This is in response to applicants' petition filed March 22, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle

John E. Kittle
Director
Technology Center 3700/2900

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OFFICE OF PETITIONS

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

In re Application of
Simon Robert Walmsley
Application No. 10/754,938
Filed: January 12, 2004
Attorney Docket No. PEA26US

: DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Rejection of September 26, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one month extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 27, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2132 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the previously filed amendment submitted in accordance with 37 CFR 1.114.

Andrea Smith
Petitions Examiner
Office of Petitions

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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 :
Amalavoyal N. **Chari, et al.** :
Application No. 10/754,978 : DECISION GRANTING PETITION
Filed: January 9, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5191P001D :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 5, 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 January 26, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned 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.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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EDGAR H. HAUG
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE
NEW YORK NY 10151

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OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Hiroshi Nakamura et al	:	
Application No. 10/754,993	:	
Filed: January 8, 2004	:	
Attorney Docket No. 790001-2018.1C	:	

This is a decision on the petition, filed May 26, 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 September 14, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2824 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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AT&T CORP.
P.O. BOX 4110
MIDDLETOWN, NJ 07748

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SEP 2 6 2005

OFFICE OF PETITIONS

In re Application of
BUCHSBAUM et al.
Application No.: 10/754,994
Attorney Docket No.:2003-0012

: DECISION on PETITION
:
: UNDER 37 CFR 1.137(b)
:

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 2005 to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to Notice to File Missing Parts mailed April 14, 2004, which set a period for reply of two (2) months. Extensions of time under the provisions of 37 CFR 1.136(a) were available. Accordingly, by operation of law, the above-identified application became abandoned at midnight on June 14, 2004. On January 12, 2005, a Notice of Abandonment under 37 CFR 1.53(f) or (g) was mailed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an executed declaration and surcharge of $130, (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of April 14, 2004 is accepted as having been unintentionally delayed.

It is not apparent whether Mr. Glenny 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 address on the petition and declaration differs from the address of record. The declaration indicates that the address associated with Customer Number 26652 is the address on the declaration. However, Office records show that the address associated with that customer number is the address currently of record. Accordingly, if petitioner desires to have correspondence mailed to the address noted on the declaration, an appropriate change of address should be submitted. In the meantime, all correspondence will be mailed to the above address of record. A courtesy copy of this decision is being mailed to the address on the declaration.

The application is being referred to the Office of Initial Patent Examination for further

processing.

Telephone inquiries concerning this decision should be directed to Cynthia Kratz at (571) 272-3286 or in her absence, the undersigned at (571) 272-3217.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

cc: AT&T CORP.
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

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OFFICE OF PETITIONS

In re Application of	:	
Adam Louis Buchsbaum, et al.	:	
Application No. 10/754,994	:	ON PETITION
Filed: January 10, 2004	:	
Attorney Docket No. 2003-0012	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 5, 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 1, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2168 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Ronald D. Slusky**
Office of Ronald D. Slusky
353 West 56th Street, Suite 5L
New York, NY 10019

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OFFICE OF PETITIONS

In re Application of	:	
Adam Louis Buchbaum	:	
Application No. 10/754,994	:	DECISION ON PETITION
Filed: January 10, 2004	:	
Attorney Docket No. 2003-0012	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 23, 2009 to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 17, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed November 14, 2008. Accordingly, the date of abandonment of this application is February 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Office of Data Management for processing into a patent.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: RONALD D. SLUSKY
353 WEST 56TH STREET
SUITE 5L
NEW YORK, NY 10019

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James E. Lake
Wells St. John P.S.
601 W. First Avenue, Suite 1300
Spokane, WA 99201-3828

MAY 16 2006

In re Application of Vishnu K. Agarwal :
Application no. 10/755,001 : DECISION ON PETITION
Filed: 9 January 2004 :
Attorney Docket No. MI22-2480 :

This is a decision on the petition filed under 37 C.F.R. §1.144 on June 16, 2005 to withdraw the restriction of claims 58 to 63 and 76 to 82. Claim 56 was not originally grouped with species I, claims 49 to 55 and 57 as indicated by the petitioner. It is understood that the petitioner requests to have claim 56 rejoined to species I as well.

The petition is **GRANTED** to the extent indicated below.

MPEP § 808.01(a) indicates that, "**Election of species should not be required if the species claimed are considered clearly unpatentable (obvious) over each other**." (emphasis in original). Species represented by claims 49 to 55, 56, 57, 58 to 63 and 76 to 82 are not patentably distinct over each other and therefore should not be restricted over each other.

Claims 56, 58 to 63 and 76 to 82 will be rejoined to the claims 49 to 55 and 57 for further prosecution in this application.

Sharon A. Gibson, Director
Technology Center 2800 – Semiconductors, Electrical and Optical Systems and Components

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OFFICE OF PETITIONS

In re Application of :
Bauta et al. : DECISION ON PETITION
Application No. 10/755,005 :
Filed: January 9, 2004 :
Attorney Docket No. ILEX:097US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed August 30, 2005, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on December 1, 2005. On April 4, 2006, the Office mailed a Notice of Abandonment.

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 this paragraph was unintentional" be submitted. 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 present petition.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 1623.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

BERNHARD KRETEN
WEINTRAUB GENSHLEA CHEDIAK SPROULE
400 CAPITOL MALL, 11TH FLOOR
SACRAMENTO, CA 95814

In re Application of :
Colten : DECISION ON PETITION
Application No. 10/755,021 :
Filed: January 8, 2004 :
Atty. Dkt. No.: 33296-PA :

This decision is in response to the petition under 37 CFR 1.181 to withdraw the holding of abandonment and the petition under 37 CFR 1.182 for expedited decision rendering, filed May 22, 2006.

The petition under 37 CFR 1.182 for expedited rendering of decision is hereby **GRANTED**.

The petition under 37 CFR 1.181 for withdrawal of the holding of abandonment is hereby **DISMISSED**.

This application became abandoned February 2, 2006 for failure to timely file a proper response to the Notice of Allowance and Notice of Allowability (Notices) mailed November 1, 2005. The Notices set a three month shortened statutory period for reply. Notice of Abandonment was mailed March 28, 2006.

Petitioner argues that the Notices were not received.

In the absence of any irregularity in the mailing of the Office communications, there is a strong presumption that the Office communications were properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the 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*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office

communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioner has provided a statement from practitioner that a search of the docket record and file jacket indicated that the Office communication was not received. However, the copy of the docket record submitted does not appear to reflect a period of time where the Office communication would have been entered had it been received. Instead, the time period reflected on the copy of the docket record appears to reflect the time period that a reply to the Notices would likely have been submitted rather than the time period of receipt of the Notices.

Any renewed petition should be accompanied by evidence to establish non-receipt of the Office communications, in particular, a copy of a docket record where the Office communication would have been entered had it been received.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries 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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SACRAMENTO, CA 95814

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OFFICE OF PETITIONS

In re Application of :
Colten : DECISION ON PETITION
Application No. 10/755,021 :
Filed: January 8, 2004 :
Atty. Dkt. No.: 33296-PA :

This decision is in response to the petition renewed under 37 CFR 1.137(b) to revive the above-referenced application and the petition under 37 CFR 1.182 for expedited decision rendering, filed February 12, 2007.

The petition under 37 CFR 1.182 for expedited rendering of decision is hereby **GRANTED**.

The petition under 37 CFR 1.137(b) is hereby **GRANTED**.

This application became abandoned February 2, 2006 for failure to timely file a proper response to the Notice of Allowance and Notice of Allowability (Notices) mailed November 1, 2005. The Notices set a three month shortened statutory period for reply. Notice of Abandonment was mailed March 28, 2006. A petition under 37 CFR 1.181 was filed May 22, 2006 and dismissed July 28, 2006.

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication 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:__

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225 WEST WASHINGTON STREET, SUITE 2600
CHICAGO IL 60606

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AUG 2 3 2004
OFFICE OF PETITIONS

In re Application of	:	
Jones, et al.	:	
Application No. 10/755,039	:	DECISION ON PETITION
Filed: 9 January, 2004	:	
Attorney Docket No. 47171-00354USD1	:	

This is a decision on the petition filed (with fee) on 17 June, 2004, under 37 C.F.R. §1.53 to accord a filing date of 9 January, 2004, to "Applicant's unintentionally mislabeled FIGURE 1z."

The petition is **DISMISSED**.

BACKGROUND

The application was deposited with the Office on 9 January, 2004.

On 13 April, 2004, the Office mailed a Notice of Omitted Items in a Nonprovisional Application (the Notice), indicating, *inter alia*, that:

- a filing date had been granted to the application;
- however, "Figure(s) 1y described in the specification" appeared to have been omitted from the application as deposited.

The Notice reminded Petitioner that the alternatives available under the Rules of Practice were to:

- submit evidence of actual deposit of the apparently omitted Figure 1y at the time the application was deposited with the Office; or

- submit the omitted Figure 1y and accept the date of that submission as the filing date of the application; or

- not respond to the Notice of Omitted Items and accept the application as filed with the then-effective date as a filing date.

Petitioner instead chose to respond that Figure 1y was mislabeled as Figure 1z, which figure was present on filing, and Petitioner submitted an additional drawing.

(Rather than respond to the Notice of Omitted Items with a petition, Petitioner should have submitted a preliminary amendment correcting either the mis-labeled drawing or the drawing (mis)identification in the specification.)

On or about 17 June, 2004, the Office accorded a 10 June, 2004, filing date to this application–rather than the previously accorded 9 January, 2004, filing date–and that change was in response to Petitioner's submission of a "corrected drawing" identified as "Fig. 1y."

ANALYSIS

A review of the application papers reveals that:

- the application was filed and received in the Office on 9 January, 2004, and that at the deposit Figure 1y was missing from the application; and

- a drawing identified as Figure 1z was present upon deposit and filing, and received a filing date of 9 January, 2004.

Thus, the Notice mailed on 13 April, 2004, appears to have been correct in stating that Figure 1y as described in the specification had been omitted. Therefore, the Notice was properly included and mailed, and it will not be withdrawn.

Petitioner stated in the petition that the drawing was mislabeled as "Fig. 1z," rather than "Fig. 1y."

However, Petitioner then submitted a new drawing–this one with Figure 1z with the z marked over with an "x" and a "y" substituted in its place.[1]

---

[1] If Petitioner wished to amend the drawing labeled as Fig. 1z, he could have marked out the expression "Fig. 1 z" in whole, and substituted clearly with "Fig. 1 y"–accompanied by a statement of a preliminary amendment requesting entry of the amended drawing.

It appears from Office records that on or about 17 June, 2004, the Office interpreted Petitioner's response to mean that he wished the omitted drawing to be part submitted as an element of the application and was willing to accept a later filing date than that of 9 January, 2004. With that, the Office accorded a 10 June, 2004, filing date to this application, and that change was in response to Petitioner's submission of a "corrected drawing" identified as "Fig. 1y."

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.53 is **dismissed**, and the petition fee previously charged will not be refunded because the instant petition was occasioned by the acknowledged error of the Petitioner and not that of the Office.

The file is released to OIPE with instructions to:

- accord to the instant application a filing date of 9 January, 2004, using only the papers deposited on that date; and
- issue a corrected filing receipt, again reflecting only the paper deposited on 9 January, 2004.

The papers identified as "Request for Approval of Drawing Correction" and the drawing submitted with it on 17 June, 2004 (over a 10 June, 2004, certificate of mailing), will not be entered.

Should Petitioner wish to correct the drawing previously identified as Figure 1z, Petitioner may file a preliminary amendment in the form and substance of that correction, and request of the Examiner entry of that amendment.

The application is being forwarded to OIPE for such processing as is necessary consistent with this decision. Thereafter the file will be forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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F. JASON FAR-HADIAN
CENTURY IP GROUP, INC.
P.O. BOX 7333
NEWPORT BEACH CA 92658-7333

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OFFICE OF PETITIONS

In re Application of	:	
Amir Sharon, et al.	:	
Application No. 10/755,058	:	DECISION ON PETITION
Filed: January 7, 2004	:	TO WITHDRAW
Attorney Docket No. 1005-06-01 USP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 3, 2009.

The request is **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.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: IXI MOBILE (R&D), LTD
PO BOX 2543
17 HA 'TIDHAR ST
RA'ANANA, 43665 ISRAEL

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JUN 0 2 2006

TECHNOLOGY CENTER 3600

Greenlee, Winner & Sullivan P.C.
4875 Pearl East Circle
Suite 200
Boulder, CO 80301

In re Application of:	:	
Lawrence Borsina et al.	:	DECISION ON PETITION
Serial No. 10/755,076	:	UNDER 37 CFR 1.91(a)(3)
Filed: January 8, 2004	:	TO ADMIT A MODEL OR
For: METHOD AND DEVICE FOR	:	EXHIBIT
AFFECTING THE BEHAVIOR OF	:	
LOBSTERS		

The instant petition accompanied the application that was filed on January 8, 2004 and asks that a compact disc be admitted as part of the record of the application.

37 CFR 1.91 provides that:

(a) models or exhibits will generally not be admitted as part of the record of an application unless it:

(1) Substantially conforms to the requirements of § 1.52 or § 1.84;
(2) Is specifically required by the Office; or
(3) Is filed with a petition under this section including:
(i) The fee set forth in § 1.17(h); and
(ii) An explanation of why entry of the model or exhibit in the file record is necessary to demonstrate patentability.

(b) Notwithstanding the provisions of paragraph (a) of this section, a model, working model, or other physical exhibit may be required by the Office if deemed necessary for any purpose in examination of the application.

(c) Unless the model or exhibit substantially conforms to the requirements of § 1.52 or § 1.84 under paragraph (a)(1) of this section, it must be accompanied by photographs that show multiple views of the material features of the model or exhibit and that substantially conform to the requirements of § 1.84.

Because the compact disc does not comply with the American Standard Code Information Interchange (ASCII) as required by 37 CFR 1.52 (e)(3)(i) (37 CFR 1.91 (a)(1), above),and since the compact disc was not required by the Office (37 CFR 1.91 (a)(2) above) applicant has filed this petition.

The petition is **DISMISSED**.

The petition fails to provide the required explanation of why the entry of the compact disc in the file record is necessary to demonstrate patentability. Indeed, although the petitioner indicates that "the compact may be necessary for enablement and written description", there is no reason supplied as to why this is the case. Furthermore, in the next paragraph of the petition it is recited that "Applicant believes that the figures in the specification provide adequate enablement and sufficient written description, but out of an abundance of caution, applicant has provided the accompanying compact disc".

These somewhat contradictory statements do not adequately show that the compact disc is necessary to demonstrate patentability.

Petitioner may also wish to alternatively seek entry of the compact disc through the use of a petition under 37 CFR 1.183 requesting waiver of the rules under 37 CFR 1.52 regarding the ASCII requirement.

Any question regarding this decision should be directed to Special Program Examiner Steven N. Meyers at (571) 272-6611.

Donald Hajec, Director
Patent Technology Center 3600
(571) 272-5150

SM/SM: 5/25/06
SM

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TECHNOLOGY CENTER 3600

In re Application of	:	DECISION ON PETITION
Lawrence Borsina et al.	:	
SERIAL NO.: 10/755,076	:	
FILED: January 8, 2004	:	
FOR: METHOD AND APPARATUS FOR AFFECTING THE BEHAVIOR OF LOBSTERS		

This is a decision on the request filed January 8, 2004 to waive the requirements of 37 CFR 1.84(a) so as to permit the application to include a color drawing. Applicant has shown that the use of color is an essential element in the representation of the drawing.

Petition Granted.

Thomas H. Tarcza
SPE, Art Unit 3662
571-272-6979

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BOULDER CO 80301

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OFFICE OF PETITIONS

In re Application of:
Borsina et al.
Application No. 10/755,076
Filed: January 8, 2004
Docket No.: 75-02

: ON PETITION

This is a decision on the petition filed September 15, 2006, under 37 CFR 1.59 requesting that the CD-ROM disc filed as an artifact for this application be expunged from the record.

The petition is **granted.**

Petitioner points to the adverse decision by the Group Director mailed June 2, 2006, on the petition filed January 8, 2004, which requested pursuant to 37 CFR 1.91(a)(3) that the aforementioned compact disc be admitted as part of the record of the application. It is agreed that under the circumstances of this case, petitioner has shown to the satisfaction of the Director that expungement and return of the CD is appropriate.

The file entry for the internal document referencing the artifact and assigning it a reference number has been closed. As such, the document, and the artifact number corresponding to the CD-ROM are no longer available to the public for inspection, which is the IFW equivalent to removal of a paper document from a paper file wrapper. The PALM entry for the artifact number for the CD-ROM has likewise been deleted from the USPTO records for this file. The CD-ROM disc is enclosed with this communication.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

Enclosure: CD-ROM disc

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SUITE 2100
SAN DIEGO, CA 92101

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OFFICE OF PETITIONS

In re Application of :
M. Samy Abdou :
Application No. 10/755,080 :
Filed: January 10, 2004 :
Attorney Docket No. 110447-000002 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 10, 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 January 10, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being returned to Initial Patent Examination Division (OIPE) to await a reply to the Notice to File Missing Parts mailed April 15, 2004. Failure to reply will again result in the abandonment of the application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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OFFICE OF PETITIONS

In re Application of :
Koziel, et al. :
Application No. 10/755,092 :
Filed: January 8, 2004 :
Attorney Docket No. 1104628-0016CON :

DECISION GRANTING PETITION

This is a decision on the petition filed June 16, 2004, that is responsive to the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed April 28, 2004.

On January 8, 2004, the application was deposited.

On April 28, 2004, the Office of Initial Patent Examination mailed the Notice stating that drawings were not found with the application papers, but appeared to be required in order to obtain a filing date. The Notice also required several other items to be filed that were not directly relevant to obtaining an initial filing date. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on June 16, 2004. Petitioner concedes that the drawings were omitted from the original application papers, but argues that the subject application incorporated by reference a prior application in its entirety and, therefore, the application was entitled to a filing date of January 8, 2004.

In this case, however, it has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that Claims 99, 110, and 114 are method claims. Therefore, the present application is deemed to be an application that does not require drawings for an understanding of the invention. Accordingly, the application, as filed, was entitled to the filing date of January 8, 2004.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of January 8, 2004. Prior to the first action on the merits, petitioner should file a preliminary amendment requesting entry of the omitted drawings. It is expected that the Office of Initial Patent Examination will review the other documents filed with the petition and proceed accordingly.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MINNEAPOLIS MN 55458

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OFFICE OF PETITIONS

Applicant: Uhlenbrock et al.
Appl. No.: 10/755,097
Filing Date: January 9, 2004
Title: METHODS AND APPARATUS FOR FORMING RHODIUM-CONTAINING LAYERS
Attorney Docket No.: 150.00780103
Pub. No.: US 2004/0147086 A1
Pub. Date: July 29, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on August 27, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY, NJ 07110

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OFFICE OF PETITIONS

In re Patent No. 6,992,083	:	
Issued: January 31, 2006	:	
Application No. 10/755,105	:	PATENT TERM ADJUSTMENT
Filed: January 9, 2004	:	
Atty. Dkt. No.: 21486	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION," filed March 20, 2006. This matter is being treated under 37 CFR 1.705(d).

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,992,083 on January 31, 2006. The instant request for reconsideration was timely filed March 20, 2006 in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of zero days. Patentee argues that the adjustment of 35 days was improperly reduced 44 days in connection with an interview summary submitted July 14, 2005.

A review of the application history reveals that at the time of issuance, an adjustment of 35 days could be attributed to the Office.

The adjustment was errantly reduced 44 days in connection with the "STATEMENT OF THE SUBSTANCE OF A TELEPHONIC INTERVIEW UNDER 37 C.F.R. § 1.133(B)" submitted July 14, 2005 in response to an examiner's interview summary. A written response to the interview summary is not deemed a failure to engage in reasonable efforts to conclude prosecution (or processing) within the meaning of 37 C.F.R. § 1.704.

Thus, at the time of issuance, the patent was entitled to a PTA 35 days, as argued by patentee. The PTA indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of 35 days.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 35 days.

The required application fee of $200.00 has been charged to patentee's deposit account as authorized herein.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,992,083 B2
DATED	:	January 31, 2006
INVENTOR(S)	:	Norcross

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 0 days

Delete the phrase "by 0 days" and insert – by 35 days--

Day : Monday
Date: 5/22/2006

PALM INTRANET

Time: 09:53:29

PTA Calculations for Application: 10/755105			
Application Filing Date:	01/09/2004	PTO Delay (PTO):	35
Issue Date of Patent:	01/31/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	44
Post-Issue Petitions:	0	Total PTA (days):	35
PTO Delay Adjustment:	44		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
42	05/22/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	44		
37	01/31/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	9		31
36	01/05/2006	FINISHED INITIAL DATA CAPTURE			
35	01/05/2006	DISPATCH TO FDC			
34	01/05/2006	DISPATCH TO FDC			
33	07/14/2005	MISCELLANEOUS INCOMING LETTER		44	29
32	11/08/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
31	09/22/2005	ISSUE FEE PAYMENT VERIFIED			
30	09/22/2005	ISSUE FEE PAYMENT RECEIVED			
29	08/26/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
28	08/26/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
27	07/08/2005	EXPORT TO INITIAL DATA CAPTURE			
26	06/28/2005	MAIL NOTICE OF ALLOWANCE			
25	06/28/2005	MAIL EXAMINER'S AMENDMENT			
24	06/27/2005	ISSUE REVISION COMPLETED			
23	06/27/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
22	06/27/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	06/27/2005	EXAMINER'S AMENDMENT COMMUNICATION			
20	06/27/2005	NOTICE OF ALLOWABILITY			
19	06/26/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
18	06/26/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			

17	05/04/2005	DATE FORWARDED TO EXAMINER			
16	04/28/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
15	04/04/2005	MAIL RESTRICTION REQUIREMENT	26		-1
14	03/28/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
13	03/16/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	03/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	12/10/2004	CERTIFIED TRANSLATION OF FOREIGN PRIORITY DOCUMENT			
10	06/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	04/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	04/13/2004	APPLICATION RETURN FROM OIPE			
7	04/13/2004	APPLICATION RETURN TO OIPE			
6	04/13/2004	APPLICATION DISPATCHED FROM OIPE			
5	04/14/2004	APPLICATION IS NOW COMPLETE			
4	03/03/2004	CLEARED BY OIPE CSR			
3	03/03/2004	CASE CLASSIFIED BY L&R			
2	01/28/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/09/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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RATNER & PRESTIA- SB DIVISION
ONE WESTLAKES
SUITE 301
BERWYN PA 19482

In re Application of:	:
Jean-Louis Ruelle	: PETITION DECISION
Serial No.: 10/755,115	:
Filed: January 9, 2004	:
Attorney Docket No.: **GSKB-110US1**	

This is in response to the petition under 37 CFR § 1.181, filed August 7, 2008, requesting that the examiner issue a supplemental Form PTO-892.

BACKGROUND

Applicant points out that the examiner has not made of record a reference relied upon in the Office action of April 16, 2008.

DISCUSSION

The petition and the file history have been carefully considered and applicant's points are well taken that the references have not been made of record.

DECISION

The petition is **GRANTED.**

A copy of Form PTO-892 with the reference cited therein is attached.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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RATNER & PRESTIA- SB DIVISION
P.O. Box 980
Valley Forge PA 19482

In re Application of	:	
Ruelle, et al.	:	DECISION ON APPLICATION
Application No. 10/755,115	:	FOR PATENT TERM ADJUSTMENT
Filed: January 9, 2004	:	
Atty. Dkt. No.: GSKB-110US1	:	

This is a decision on the "PETITION UNDER 37 C.F.R. §1.705 FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed August 7, 2008. This matter is being treated as an application for patent term adjustment under 37 CFR 1.705(b).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Determination of Patent Term Adjustment mailed May 7, 2008 indicated that the application is entitled to adjustment of 322 days. Applicants argue that the adjustment was improperly reduced 145 days in connection with the supplemental amendment submitted March 11, 2008.

The correct PTA at the time of the allowance is 467 days.

Applicants do not dispute the adjustment under 37 CFR 1.703(a)(1) of 495 days. Applicants do not contest the reductions of 13 days under 37 CFR 1.704(b) and 94 days under 37 CFR 1.704(b).

Applicants contest the reduction under 37 CFR 1.704(c)(8) of 145 days in connection with the supplemental amendment submitted March 11, 2008.

Review of the record and, further, consultation with the Special Program Examiner Robert Mondesi of Group Art Unit 1645 reveals that the supplemental amendment was submitted at the request of the examiner of record. Thus, the submission is not a failure to engage in reasonable efforts to conclusion prosecution within the meaning of 37 CFR 1.704(c)(8).

Applicants further argue that the Office accorded an adjustment under 37 CFR 1.703(a)(3) of 79 days, rather than 16 days, in connection with the mailing of the Notice of Allowance. The correct adjustment is 79 days, as accorded, as the adjustment within the meaning 37 CFR 1.703(c)(4) commenced the day after the date that is four months after the date that the request for continued examination was filed rather than the date that the supplemental amendment was filed.

In review thereof, as of the time of allowance, the application is entitled to an adjustment of 467 days (adjustments totaling 574 days less reductions totaling 107 days).

Receipt is hereby acknowledged of the required PTA application fee of $200.00.

Applicants are further advised that 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).

The application file is being forwarded to the Division of Data Management for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Adjusted PAIR Calculation

Day : Thursday
Date: 3/19/2009

PALM INTRANET

Time: 09:06:44

PTA Calculations for Application: 10/755115			
Application Filing Date:	01/09/2004	PTO Delay (PTO):	574
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	252
Post-Issue Petitions:	0	Total PTA (days):	467
PTO Delay Adjustment:	145		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
81	03/19/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	145		
61	05/07/2008	MAIL NOTICE OF ALLOWANCE	79		44
60	05/07/2008	ISSUE REVISION COMPLETED			
59	05/07/2008	DOCUMENT VERIFICATION			
58	04/28/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
57	04/28/2008	CASE DOCKETED TO EXAMINER IN GAU			
56	04/28/2008	EXAMINER'S AMENDMENT COMMUNICATION			
55	04/28/2008	NOTICE OF ALLOWABILITY			
54	04/23/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
51	03/21/2008	DATE FORWARDED TO EXAMINER			
50	03/11/2008	SUPPLEMENTAL RESPONSE		145	44
49	11/16/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
48	11/09/2007	CORRESPONDENCE ADDRESS CHANGE			
47	11/01/2007	DATE FORWARDED TO EXAMINER			
46	10/18/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
45	11/01/2007	DATE FORWARDED TO EXAMINER			
44	10/18/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		94	36
43	11/01/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
42	10/18/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	10/18/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	07/26/2007	MAIL ADVISORY ACTION (PTOL - 303)			

39	07/23/2007	ADVISORY ACTION (PTOL-303)			
38	05/16/2007	DATE FORWARDED TO EXAMINER			
37	05/11/2007	AMENDMENT AFTER FINAL REJECTION			
36	04/16/2007	MAIL FINAL REJECTION (PTOL - 326)			
35	04/13/2007	FINAL REJECTION			
34	01/19/2007	DATE FORWARDED TO EXAMINER			
33	01/03/2007	RESPONSE AFTER NON-FINAL ACTION			
32	12/14/2006	MAIL NON-FINAL REJECTION			
31	12/11/2006	NON-FINAL REJECTION			
30	10/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	01/09/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	11/09/2006	CORRESPONDENCE ADDRESS CHANGE			
27	11/13/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
26	10/30/2006	REFERENCE CAPTURE ON IDS			
25.7	10/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	23
25	10/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	11/02/2006	DATE FORWARDED TO EXAMINER			
23	10/30/2006	RESPONSE TO ELECTION / RESTRICTION FILED		13	21
22	10/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	07/17/2006	MAIL RESTRICTION REQUIREMENT	495		-1
20	07/11/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
19	07/02/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	07/02/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17.7	01/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	01/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	04/21/2004	APPLICATION RETURN FROM OIPE			
15	04/21/2004	APPLICATION RETURN TO OIPE			
14	04/21/2004	APPLICATION RETURN FROM OIPE			
13	04/22/2004	APPLICATION IS NOW COMPLETE			
12	04/21/2004	APPLICATION RETURN TO OIPE			
11	04/21/2004	APPLICATION RETURN FROM OIPE			

10	04/21/2004	APPLICATION RETURN TO OIPE			
9	04/21/2004	APPLICATION DISPATCHED FROM OIPE			
8	04/21/2004	APPLICATION IS NOW COMPLETE			
7	03/15/2004	CLEARED BY L&R (LARS)			
6	03/03/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
5	03/03/2004	CASE CLASSIFIED BY OIPE			
4	01/30/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	01/26/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	01/09/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
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EXPLANATION OF PTA CALCULATION

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In re Patent No. 7,521,549 :
Issued: April 21, 2009 :
Application No. 10/755,115 : PATENT TERM ADJUSTMENT
Filed: January 9, 2004 :
Dkt. No.: 400077.405D1 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed June 19, 2009. Patentee requests correction of the patent term adjustment from 602 days to 884 days. Patentee requests this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,521,549 on April 21, 2009. The patent issued with a patent term adjustment of 602 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee argues that in view of Wyeth v. Dudas, Civil Action No. 07-1492, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. Sept. 30, 2008), the patent is entitled to an adjustment of 884 days (709 days pursuant to 35 USC 154(b)(1)(A) *plus* 282 days pursuant to 35 USC 154(b)(1)(B) *less* 107 days of applicant delay).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the request for continued examination (RCE) on October 18, 2007, the application was pending three years and 281 days after its filing date (January 10, 2007 to October 17, 2007). The Office agrees that as of the filing of the RCE, certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 495 days is correct. At issue is whether patentees should accrue 281 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 495 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 281 days of delay in issuing the patent overlaps with the 495 days of examination delay under 37 CFR 1.702(a)(1). Patentees' calculation of the period of

overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning 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).

---

[1] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), January 9, 2004, and ending on October 17, 2007, the day before the date that the RCE was filed on October 18, 2007.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 495 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 281 days of patent term adjustment had accrued at the time of submission of the RCE for Office issuance of the patent more than three years after the application filing date.

The 281 days of patent term adjustment under 37 CFR 1.702(b) overlaps with the 495 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 281 days and the 495 days is neither permitted nor warranted given that 495 days is the actual number of days issuance of the patent was delayed at the time of submission of the RCE.

Accordingly, at issuance, the Office properly entered 602 days of patent term adjustment, having considered the 281 days of Office delay under the three-year pendency provision in conjunction with the 495 days of delay under 37 CFR 1.702(a)(1) that accrued prior to submission of the RCE and the adjustments of 79 days under 37 CFR 1.702(a)(2) and 135 days under 37 CFR 1.702(a)(4) days that accrued subsequent to the submission of the RCE, reduced 107 days for applicant delay.

In view thereof, no adjustment to the patent term will be made.

Receipt is hereby acknowledged of the required $200.00 patent term adjustment application fee.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SEATTLE, WA 98104

Mail Date: 04/21/2010

Applicant	: Jean-Louis Ruelle	: DECISION ON REQUEST FOR
Patent Number	: 7521549	: RECALCULATION of PATENT
Issue Date	: 04/21/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/755,115	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **883** 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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DAVID K. LUCENTE; SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT. - COL2LGL
389 DISC DRIVE
LONGMONT, CO 80503

Mail Date: 04/21/2010

Applicant	: Lance Flake	: DECISION ON REQUEST FOR
Patent Number	: 7596721	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/755,117	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1286** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DEC 17 2004

Director's Office
Group 3700

John L. Loth
P.O. Box 4094
Morgantown, WV 26504

In re application of John L. Loth Serial Number: 10/755134 Filed: January 09, 2004	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**

For: **COMPRESSION IGNITION ENGINE BY AIR INJECTION CYCLE AND ENGINE**

This is a decision on the petition filed on January 09, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 12/16/04

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Attention: Eric D. Levinson
Imation Corp
Legal Affairs
P.O. Box 64898
St. Paul MN 55164-0898

MAIL

MAR 25 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
YIP, YUNG
Application Serial No.: 10/755,143
Filed: January 8, 2004
For: **SYSTEM WITH MATRIX ARRAY OF WRITE HEADS AND ARRAY OF MAGNETORESISTIVE (MR) READ HEADS**

DECISION
ON PETITION

This is a decision on the petition filed December 17, 2007 to 1) reinstate withdrawn claims 21 and 22, which were withdrawn by the Examiner in the final Office Action mailed October 19, 2007 based on an improper Election Requirement, and 2) rescind the finality of the final Office Action mailed October 19, 2007 pursuant to 37 CFR § 1.181.

Petitioner alleges that the Examiner improperly refused to examine claims 21 and 22, and has failed to address Applicant's arguments as to why claims 21 and 22 are not a species relive to the genus of claim 1. The finality of the current Office Action is also improper for this reason.

PERTINENT BACKGROUND

An election of Species Requirement was mailed on August 11, 2006 requiring applicant to elect one species from three separate species identified as (A) FIG.2, (B) FIG.6, and (C) FIG.8. No claims were identified as generic to all three species.

Applicant filed a Response to the Election requirement on September 5, 2006 electing Group A FIG. 2 with traverse. The traverse is based on applicant's argument that FIG.2 is generic to FIG.6 and FIG.8 and independent claims 13 and 18 are species of the genus defined by claim 1. Applicant further indicated if examiner recognizes claim 1 (FIG. 2) is generic, applicant would elect the species of FIG 6.

A non final office action was mailed on November 7, 2006. The response to the election with traverse was found to be not persuasive. A rejection of claims 1-12 being drawn to elected species group A was made. The rest of the claims 13-20 were withdrawn from consideration as being directed to non-elected species.

Applicant filed an amendment to the claims on February 7, 2007. The amendment cancelled claims 13-20 and added new claims 21-22. Applicant again reiterated the argument for an election of species between FIG. 6 and FIG. 8 with FIG. 2 being a genus of these species. Applicant requested claims 21 and 22 be examined with remaining claims 1-12.

A non final office action was mailed April 19, 2007. The office action withdrew claims 21-22 from examination as being directed to Species C and the invention had been constructively elected as a result of an action on the merits for the originally presented invention.

Applicant filed an amendment on July 19, 2007. Applicant again reiterated the argument for an election of species between FIG. 6 and FIG. 8 with FIG. 2 being a genus of these species. Applicant disagreed with examiners refusal to examine claims 21 and 22 and argued claims 1 and 21 should be examined together, consistent with Applicant's election of the genus of FIG 2 and the species of FIG 6.

A final rejection was mailed on October 19, 2007.

On December 17, 2007, applicant filed an amendment after Final concurrently with the petition to the Director under 37 CFR 1.181.

REGULATIONS AND PRACTICE

37 CFR 1.146. Election of species.

In the first action on an application containing a generic claim to a generic invention (genus) and claims to more than one patentably distinct species embraced thereby, the examiner may require the applicant in the reply to that action to elect a species of his or her invention to which his or her claim will be restricted if no claim to the genus is found to be allowable. However, if such application contains claims directed to more than a reasonable number of species, the examiner may require restriction of the claims to not more than a reasonable number of species before taking further action in the application.

MPEP 806.04 states in part:

Where an application includes claims directed to different embodiments or species that could fall within the scope of a generic claim, restriction between the species may be proper if the species are independent or distinct.

MPEP 806.04(d) states in part:

In general, a generic claim should *>require< no material element additional to those **>required by< the species claims, and ** each of the species >claims must require all the limitations of the generic claim<.

MPEP 806.04(e) states in part:

Claims are definitions >or descriptions< of inventions. Claims >themselves< are never species. The scope of a claim may be limited to a single disclosed embodiment (i.e., a single species, and thus be designated a specific species claim)*>. Alternatively,< a claim may *>encompass< two or more of the disclosed embodiments** (and thus be designated a generic or genus claim).

OPINION

A review of the record indicates Figure 2 is generic to Figure 6 and Figure 8. Claim 1 is generic to all pending claims. Therefore applicant's election of the species of Figure 6 in the election of species response filed on September 5, 2006 and again repeated in the response filed July 19, 2007 is proper. A review of all of the remaining claims 1-12 and 21-22 indicate claims 1-12 are readable on the species of Figure 6. Claims 21-22 are readable on species of Figure 8. Since Figure 6 is the elected species by applicant, claims 21-22 are withdrawn from consideration. Applicant has already received an office action on all of the remaining pending claims 1-12. The Final rejection will not be withdrawn to examine claims 21-22, since claims 21-22 are drawn to a non-elected species (Figure 8).

Accordingly, the petition to reinstate withdrawn claims 21-22 is **DENIED**. The petition to rescind the finality of the current office action is also **DENIED**.

The three month shortened statutory period for response set forth in the Final Office action of October 17, 2007 continues to run. The application is being forwarded to the examiner for consideration of the Amendment After Final filed December, 17, 2007.

Andrew Faile, Director
Technology Center 2600
Communications

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

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OFFICE OF PETITIONS

In re Application of	:	
Mitesh Dalal, et al.	:	
Application No. 10/755,146	:	DECISION GRANTING PETITION
Filed: January 9, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50325-0868	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 25, 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 September 25, 2006 (certificate of mail date September 21, 2006) cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2132 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the previously filed information disclosure statement.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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BATEMAN IP LAW GROUP
P.O. BOX 1319
8 EAST BROADWAY, SUITE 550
SALT LAKE CITY, UT 84110

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OFFICE OF PETITIONS

In re Application of	:	
Bill J. Pope et al	:	
Application No. 10/755,152	:	ON PETITION
Filed: January 9, 2004	:	
Attorney Docket No. 6065.1 P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 11, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 12, 2007.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3738 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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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
10/755,152	01/09/2004	Bill J. Pope	6065.1 P

CONFIRMATION NO. 9650

POA ACCEPTANCE LETTER

BATEMAN IP LAW GROUP
P.O. BOX 1319
8 EAST BROADWAY, SUITE 550
SALT LAKE CITY, UT 84110

OC000000028179826

Date Mailed: 02/07/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/02/2007.

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.

/idingle/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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JAN 26 2005

TECHNOLOGY CENTER 3600

Law Offices of John D. Gugliotta PE, Esq.
202 Delaware Building, 137 South Main Street
Akron, OH 44308

In re application of
Steven Tsengas
Application No. 10/755,160
Filed: January 12, 2004
For: PET CHEW TOY FOR HOLDING CONSUMABLE TREATS

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on January 12, 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 Steven Tsengas indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/dcg: 1/24/05

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OCT 2 4 2006

Technology Center 2100

KOESTNER BERTANI LLP
P.O. Box 26780
Austin, TX 75755

In re application of
Michael W. ROEGNER
Serial No. 10/755,173
Filed: January 09, 2004
For: METHOD AND SYSTEM FOR DYNAMICALLY IMPLEMENTING AN ENTERPRISE RESOURCE POLICY

DECISION ON PETITION TO MAKE SPECIAL UNDER MPEP § 708.02 II (Infringement)

This is a decision on the petition, having a certificate of mailing date of September 22, 2006, to make the above-identified application special in view of the accelerated examination procedure set forth in MPEP § 708.02(a).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a) **on or after August 25, 2006**;
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was filed on January 9, 2004 and not **on or after August 25, 2006**.

Note also that MPEP § 708.02 requires that a petition to make special filed on or after August 25, 2006 will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in MPEP § 708.02(a). Note that any petition to make special under MPEP § 708.02, subsection II was required to be filed **prior to** August 25, 2006.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3595

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Paper No.

K&L GATES LLP
210 SIXTH AVENUE
PITTSBURGH PA 15222-2613

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JUN 22 2010

OFFICE OF PETITIONS

In re Application of :
Michael W. Roegner :
Application No. 10/755,173 :
Filed: 01/09/2004 :
Atty Docket No. :
070424 :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed on February 11, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is 1,056 days, not 584 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, 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 address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

K&L GATES LLP
HENRY W. OLIVER BLDG.
535 SMITHFIELD ST
PITTSBURGH PA 15222

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BEYER WEAVER & THOMAS, LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Application of	:	
Atkinson	:	
Application No. 10/755,202	:	DECISION DISMISSING PETITIONS
Filed: January 8, 2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. IGT1P303/AC034	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 22, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending 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 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

The amendment states that the application is a continuation in part of the newly added provisional application. The undersigned assumes that petitioners desire 35 U.S.C. §119(e), not 35 U.S.C. §120 benefits with respect to the newly added provisional application. In addition, the relationship between the application and application no. 10/723,375 is not clearly stated. Suggested language to clarify petitioner's presumed intent is: "This application a continuation in part of Application No. 10/723,375, filed November 25, 2003, which claims priority from Provisional Application No. 60/477,664, filed June 10, 2003."

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Also, 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require 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. 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) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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BEYER WEAVER & THOMAS, LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Application of	:	
Atkinson	:	
Application No. 10/755,202	:	DECISION GRANTING PETITIONS
Filed: January 8, 2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. IGT1P303/AC034	:	

This is a decision on the reconsideration petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 20, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3714 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

MAIL

JUL 2 0 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Pedro V. Sander *et. al*
Serial No.: 10/755,206
Filed: January 9, 2004
For: **MULTI-CHART GEOMETRY IMAGES**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.84(a)(2) filed April 10, 2007, requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 1A-IC, 4A-4B, 6A-6B, 7A-7C, 9, 10A-10B, 11A-11B, 12A-12C, 14A-14D, 15A-15C, 16A-16B, 18A-18D, 19, 20, 21, and 22A-22C to be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed without 3 (three) complete sets of color drawings of figures1A-1C, 4A-4B, 6A-6B, 7A-7C, 9, 10A-10B, 11A-11B, 12A-12C, 14A-14D, 15A-15C, 16A-16B, 18A-18D, 19, 20, 21, and 22A-22C. Submitted with the petition was one (1) set of colored drawings for figures 1A-1C through 22A-22C.

As stated, a grantable petition must be accompanied by three (3) sets of the color drawings and color photographs. Accordingly, the petition is **Denied**.

The petitioner may submit a request for reconsideration with **TWO MONTHS** of the date of this decision. Any request for reconsideration should be complete, i.e., include three (3) sets of color drawings, color photographs and a black and white photocopy of the same.

Kenneth A. Weider

Kenneth Weider
Special Program Examiner
Technology Center 2600
Communications

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ALEXANDRIA, VA 22313-1450
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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND OR 97204

MAIL

JUL 24 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
SANDER, PEDRO V. et al
Serial No.: 10/755,206
Filed: January 9, 2004
For: **MULTI-CHART GEOMETRY IMAGES**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed April 10, 2007, requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 1A-IC, 4A-4B, 6A-6B, 7A-7C, 9, 10A-10B, 11A-11B, 12A-12C, 14A-14D, 15A-15C, 16A-16B, 18A-18D, 19, 20, 21, and 22A-22C to be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is GRANTED.

Kenneth Weider
Special Program Examiner
Technology Center 2600
Communications

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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HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

Mail Date: 04/26/2010

Applicant	: B. Robert Mozayeni	: DECISION ON REQUEST FOR
Patent Number	: 7604599	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/755,208	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1424** 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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MAY 31 2005

Kenneth William Jongebloed
1860 N. Atlantic Ave. B407
Cocoa Beach, FL 32931

In re application of Kenneth William Jongebloed Application No. 10/755,246 Filed: January 10, 2004 For: ADAPTIVE NETWORK-CENTRIC ONLINE AUTONOMIC SUPPLY CHAIN MANAGEMENT SYSTEM	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on February 23, 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 statement signed by Kenneth William Jongebloed indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/dcg: 4/7/05

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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
10/755,248	01/12/2004	3643	450	91355.118903	4	18	2

CONFIRMATION NO. 9660

UPDATED FILING RECEIPT

OC000000013169339

Frank V. Gallucci, Esq.
JAECKLE FLEISCHMANN & MUGEL, LLP
Suite 200
39 State Street
Rochester, NY 14614-1310

Date Mailed: 07/07/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Daryl Austin, Newfane, NY;
Edward J. Horeth, Rochester, NY;
Darryl Dinel, Atlanta, GA;
Ronald Potter, Dunwoody, GA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/14/2004

Projected Publication Date: 07/14/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Automated cage cleaning apparatus and method

Preliminary Class

119

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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HOUSTON, TX 77253-3267

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APR 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Michel E. Mawad	:	
Application No. 10/755,249	:	DECISION ON PETITION
Filed: January 12, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 1366-00901		

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed October 14, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional Application No. 60/439,229, filed January 10, 2003.

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 provisional application. In addition, the petition must be accompanied by:

(1) the reference to the prior filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

(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 petition does not comply with item (1) above.

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(5)(i) and (a)(5)(iii). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition and a substitute amendment (complying with the provisions of 37 CFR 1.121) is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (703) 872-9306
ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOUSTON, TX 77253-3267

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NOV 24 2006
OFFICE OF PETITIONS

In re Application of	:
Michel E. Mawad	:
Application No. 10/755,249	: DECISION ON PETITION
Filed: January 12, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 1366-00901	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed June 14, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on January 12, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/439,229, which was filed on January 10, 2003, and for which priority is claimed. The Supplemental Application Data Sheet filed with the renewed petition on June 14, 2005 shows the filing date of the provisional application as January 12, 2004, which is inconsistent with Office records.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and a Supplemental Application Data Sheet or amendment with the correct provisional filing date of January 10, 2003 is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks
Petitions Examiner
Office of Petitions

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DAVID A. ROSE
P.O. BOX 3267
HOUSTON, TX 77253-3267

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MAY 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Michel E. Mawad	:	
Application No. 10/755,249	:	DECISION ON PETITION
Filed: January 12, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 1366-00901	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed November 30, 2006 and supplemented on May 14, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed Supplemental Application Data Sheet.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3767 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Karen Creasy

Karen Creasy
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/755,249	01/12/2004	3767	884	1366-00901	21	2

CONFIRMATION NO. 9662

CORRECTED FILING RECEIPT

23505
CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON, TX 77253-3267

OC000000029978174

Date Mailed: 05/16/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Michel E. Mawad, Houston, TX;

Power of Attorney:

Stanton Braden--32556
Patrick Bever--33834
James Parsons--34691
Jeanette Harms--35537
Marie-Claire Maple--37588
Edward Hoffman--38186
Edward Mao--40713
Erik Berger--42315
John Kubodera--45984

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/439,229 01/10/2003

Foreign Applications

If Required, Foreign Filing License Granted: 04/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/755,249**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Microcatheter including swellable tip

Preliminary Class

604

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).

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Boehringer Ingelheim Corp.
900 Ridgebury Road
P.O. Box 368
Ridgefield, CT 06877

Date: November 22,2006
Application No. 10/755,256
Filed: January 12, 2004
Subject: **Viral Polymerase Inhibitors**

Receipt is acknowledged of the petition filed January 09, 2004 under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that during the prosecution of the instant application a restriction was required and therefore, not all of the inventors contributed to the invention as now claimed. Accordingly, this application has been changed by the **deletion of Christian Brochu, Eric Jolicoeur, and Youla Tsantrizos.** The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

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

November 17, 2005

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT & KRAUS
1300 North 17th Street
Suite 1800
Arlington, VA 22209-3873

Patent No.: **6947316 B2**
Inventor(s): **Hiromasa Takahashi, et al.**
Issued: September 20, 2005
Title: **MAGNETORESISTIVE SENSOR INCLUDING MAGNETIC DOMAIN CONTROL LAYERS HAVING HIGH ELECTRIC RESISTIVITY, MAGNETIC HEAD AND MAGNETIC DISK APPARATUS**

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 & Certificates
of Correction Branch
(703) **308-9390 ext 113** or (703) 308-8309

vt

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

Lowe Hauptman Gilman and Berner, LLP
1700 Diagonal Road
Suite 300/310
Alexandria, VA 22314

COPY MAILED
NOV 23 2004
OFFICE OF PETITIONS

In re Application of	:
Nomura et al.	: DECISION GRANTING PETITION
Application No. 10/755,335	:
Filed: January 13, 2004	:
Attorney Docket No. 2038-321	:

This is a decision on the petition under 37 CFR 1.53(e), filed November 9, 2004, requesting that the above-identified application be accorded a filing date of January 13, 2004, with Figures 1 to 10 as part of the original disclosure.

On January 13, 2004, applicants deposited the above-identified application. On October 19, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings.

In response, on November 9, 2004, applicants filed the present petition and a copy of 10 sheets of drawings (Figures 1 to 10). Additionally, applicants submitted a copy of the date-stamped postcard receipt, acknowledging receipt of "Drawings (sheets 10) Formal" on January 13, 2004.

Upon review of the record, 10 sheets of drawings (Figures 1 to 10) deposited on January 13, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on January 13, 2004, included 10 sheets of drawings (Figures 1 to 10), which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the

application, including 10 sheets of drawings, was complete on filing and will be granted a filing date of January 13, 2004.

Accordingly, the petition is granted. The requirement for drawings as set forth in the Notice of Incomplete was sent in error and is hereby vacated. The petition fees totaling $260.00 are unnecessary and will be credited to Deposit Account No. 07-1337.

The Office of Initial Patent Examination is directed to process the above-identified application with a **filing date of January 13, 2004,** using the 10 sheets of drawings submitted on November 9, 2004, and to mail a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : March 27, 2007

Patent No. :7,175,509
Inventor(s) : Munehisa GUNJIMA et all
Issued :February 13, 2007
Title :GRINDER AND METHOD OF AND APPARATUS FOR NON-CONTACT
Docket No. :Q79295

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

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.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Angela Green

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

CBN/arg

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
SUITE 800
WASHINGTON, DC 20037

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Patent No. 7,175,509	:	
Issue Date: February 13, 2007	:	
Application No. 10/755,343	:	ON PETITION
Filed: January 13, 2004	:	
Attorney Docket No. Q79295	:	

This is a decision on the petition filed May 28, 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**.

No fee is required, since under the provisions of 37 CFR 1.322, the mistake in the patent was incurred through the fault of the Office and is clearly disclosed by the records of the Office.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735. 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	Docket No: Q79295
Munehisa GUNJIMA, et al.	Group Art Unit: 3723
Appln. No.: 10/755,343	Examiner: Shantese L. McDonald
Confirmation No.: 1214	Patent No.: 7,175,509
Filed: January 13, 2004	Issue Date: February 13, 2007

For: GRINDER AND METHOD OF AND APPARATUS FOR NON-CONTACT CONDITIONAL OF TOOL

REQUEST FOR CERTIFICATE OF CORRECTION

ATTN: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the provisions of 37 C.F.R. § 1.322, please enter the attached Certificate of Correction.

In response to the Notice dated March 27, 2007 regarding our original Request for certificate of correction, item 3 of the Fee(s) Transmittal Form PTOL-85b clearly identifies the assignee's name as Mitsubishi Denki Kabushiki Kaisha. Copies of the original Fee(s) Transmittal Form PTOL-85B, Notice dated March 27, 2007, and original Assignment are attached herewith evidencing that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent.

Since the errors noted are believed to be the fault of the Patent and Trademark Office, we are not enclosing the $100.00 Certificate of Correction fee. If it is found to be to the contrary, please charge our Deposit Account No. 19-4880.

REQUEST FOR CERTIFICATE OF CORRECTION **Attorney Docket No.: Q79295**
U.S. Application No. 10/755,343
U.S. Patent No. 7,175,509

In view of the foregoing, issuance of the Certificate of Correction is respectfully requested.

Respectfully submitted,

David P. Emery
Registration No. 55,154

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: May 28, 2009

PART B - FEE(S) TRANSMITTAL

Complete and send this form, togeth with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

23373 7590 09/01/2006

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,343	01/13/2004	Munehisa Gunjima	Q79295	1214

TITLE OF INVENTION: GRINDER AND METHOD OF AND APPARATUS FOR NON-CONTACT CONDITIONING OF TOOL

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$0	$1700	12/01/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
MCDONALD, SHANTESE L	3723	451-056000

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.

SUGHRUE MION, PLLC
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: Mitsubishi Denki Kabushiki Kaisha

(B) RESIDENCE: (CITY and STATE OR COUNTRY): TOKYO, JAPAN

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☑ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:
☑ Issue Fee
☑ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

The statutory fee is being charged to Deposit Account No. 19-4880 via EFS Payment Screen. Please charge any payment deficiency and credit overpayment to PODA 19-4880.

ciency, or credit any extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ GRANT C. ROWAN Reg. No. 41,278 Date 11/28/06

Typed or printed name Richard C. Turner Registration No. 29, 710

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

CERTIFICATE OF CORRECTION

PATENT NO: 7,175,509

DATED: February 13, 2007

INVENTOR(S): Munehisa GUNJIMA;Tomoaki NAKASUJI;Kouji YOKOTA

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

IN THE ASSIGNEE:

~~Itsubishi~~ Mitsubishi Denki Kabushiki Kaisha, Tokyo (JP)

MAILING ADDRESS OF SENDER:
SUGHRUE MION, PLLC
WASHINGTON OFFICE
23373
CUSTOMER NUMBER

PATENT NO. 7,175,509

No. of additional copies
0

US007175509B2

(12) **United States Patent**
Gunjima et al.

(10) **Patent No.: US 7,175,509 B2**
(45) **Date of Patent: Feb. 13, 2007**

(54) **GRINDER AND METHOD OF AND APPARATUS FOR NON-CONTACT CONDITIONING OF TOOL**

(75) Inventors: **Munehisa Gunjima**, Tokyo (JP); **Tomoaki Nakasuji**, Tokyo (JP); **Kouji Yokota**, Tokyo (JP)

(73) Assignee: **Itsubishi Denki Kabushiki Kaisha**, Tokyo (JP)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **10/755,343**

(22) Filed: **Jan. 13, 2004**

(65) **Prior Publication Data**

US 2004/0142644 A1 Jul. 22, 2004

Related U.S. Application Data

(62) Division of application No. 10/127,610, filed on Apr. 23, 2002, now Pat. No. 6,793,562.

(30) **Foreign Application Priority Data**

Apr. 23, 2001 (JP) 2001-124615
Apr. 15, 2002 (JP) 2002-111549

(51) **Int. Cl.**
B24B 1/00 (2006.01)
B24B 21/18 (2006.01)

(52) **U.S. Cl.** **451/56**; 451/177; 451/178; 451/289; 451/443; 451/444; 451/540; 451/541; 451/547; 451/548

(58) **Field of Classification Search** 451/177, 451/178, 289, 443, 444, 540, 541, 547, 548
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

4,533,812 A *	8/1985	Lorenz	.....	219/121.68
5,906,246 A *	5/1999	Mensa-Wilmot et al.	...	175/432
6,595,844 B1 *	7/2003	Mizuno et al.	.....	451/540

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JP	HEI11-56714	6/1999
JP	HEI11-85971	10/1999
JP	2001-088032 A	4/2001

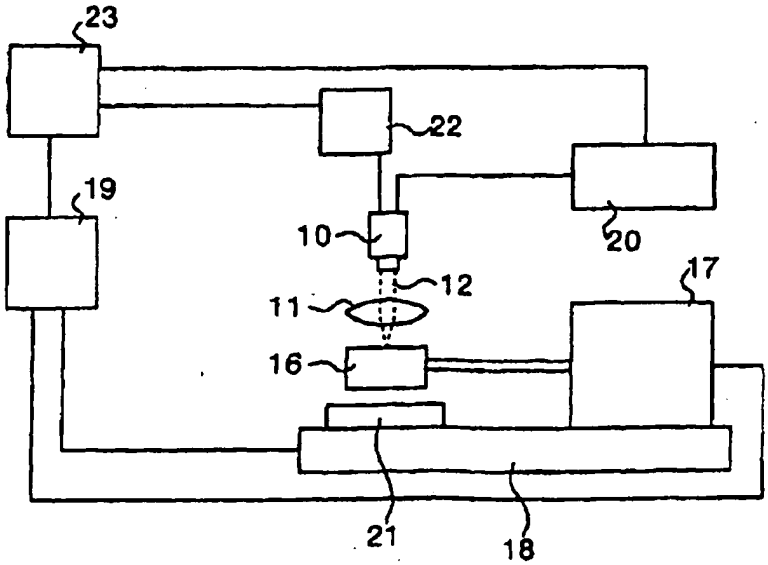
* cited by examiner

Primary Examiner—Joseph J. Hail, III
Assistant Examiner—Shantese McDonald
(74) *Attorney, Agent, or Firm*—Sughrue Mion, PLLC

(57) **ABSTRACT**

Truing of a grinder is performed by irradiating a laser beam onto abrasive grains on the outermost periphery of the grinder from the tangential direction of the grinder. Truing of the grinder for adjusting the number of working abrasive grains and the shape of the abrasive grains involved in the actual machining is performed under a non-contact condition and at highly accurately, thereby enabling highly accurate and highly efficient machining.

8 Claims, 21 Drawing Sheets



SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 29, 2008

TO SPE OF : ART UNIT 2892

SUBJECT : Request for Certificate of Correction for Appl. No.:/10/755344

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.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

THAO XUAN LE
SUPERVISORY PATENT EXAMINER

A42892

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)
7,040,658	2006-05-09	10/755,361	2004-01-13	12492.0030D1

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	/Scott D. Watkins/	Date (YYYY-MM-DD)	2010-05-11
Name	Scott D. Watkins	Registration Number	36715

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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In re Patent No. 7040658
Issue Date: May 9,2006
Application No. 10755361
Filed: January 13,2004
Attorney Docket No. 12492.0030-D1

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed May 11,2010 ,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 11,2010 . 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/01/06

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/755375** Patent No.: **6992385**

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**.

Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____ **SPE** _____ **Art Unit**

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SEP 22 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
Hans J. Hansen et al	:
Serial No.: 10/755,382	: WITHDRAWAL OF ATTORNEY
Filed: January 13, 2004	:
Attorney Docket No.: 018733-1127	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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051905

BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. Box 747
Falls Church, VA 22040-0747

JUN - 1 2005

In re Application of:
Seung-Do Han et al.
Serial No.: 10/755,390
Filed: January 13, 2004
Attorney Docket No.: 0630-1928P

DECISION ON REQUEST
TO REMAIL OFFICE ACTION

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW THE HOLDING OF ABANDONMENT" filed on March 8, 2005. It is being treated as a request to remail Office action.

The request is **GRANTED**.

A non-final Office action was mailed on August 27, 2004. There was no response to this Office action within the six month statutory period set forth in 35 U.S.C. 133. Thus, the application became abandoned by operation of law for failure to reply to the Office action. However, no Notice of Abandonment has been mailed.

Petitioner asserts applicant did not receive the Office action of August 27, 2004. The petition provides the required showing under MPEP § 711.03(c)(II) to establish nonreceipt of an Office action. It includes a statement from the practitioner stating that the Office action of August 27, 2004 was not received and attesting to the fact that a search of the file and docket records indicates that the Office action was not received. It also includes a copy of the docket records where the nonreceived Office action would have been entered had the Office action been received. The evidence is sufficient to establish that the Office action of August 27, 2004 was not received.

Accordingly, the Office action of August 27, 2004 will be remailed and a new shortened statutory period for response to this Office action will be set to expire three months from the date of remailing.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

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APR 17 2006

OFFICE OF PETITIONS

In re Application of Morise :
Application No. 10/755,406 :
Filing Date: January 13, 2004 :
Attorney Docket No. SN-US020642 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed February 14, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action was mailed on August 24, 2005. A reply was not received and the application was deemed abandoned as of November 25, 2005.

Petitioner contends the non-final Office action was never received.

Petitioner has provided evidence sufficient to demonstrate the non-final Office action was never received.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3654 will be informed of this decision and the examiner will re-mail the non-final Office action.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

In re Application of	:	
Moshe Dudai	:	
Application No. 10/755,408	:	ON PETITION
Filed: January 13, 2004	:	
Attorney Docket No. 46090	:	

This is a decision on the petition, filed June 4, 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 timely file a reply to a non-final Office action mailed April 17, 2008. No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 18, 2008. A Notice of Abandonment was mailed on October 28, 2008. On June 4, 2009, the present petition was filed.

It is noted that the petition did not include a response in the present application to continue prosecution; however, petitioner indicates the reply to the outstanding Office action is submitted concurrently herewith in the form of a continuation application. The petition is not accompanied by a statement of express abandonment in favor of the filing of the continuation 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, the statement in the petition 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 continuation application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

This application is being revived solely for the purpose of continuity with the Application No. 12/457,233. As continuity has been established by revival of this application, this application is again abandonment in favor of continuing Application No. 12/457,233, filed June 4, 2009.

The Revocation and Power of Attorney filed June 4, 2009, has been processed and the Notice of Acceptance is enclosed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petition

Enclosure

[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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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/755,408	01/13/2004	Moshe Dudai	24194-Y

CONFIRMATION NO. 9894

POA ACCEPTANCE LETTER

67801
MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

OC000000037043047

Date Mailed: 07/23/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/04/2009.

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.

/sdbrinkley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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David C. Ripman, Patent Counsel
Sharp Laboratories of America, Inc.
5750 NW Pacific Rim Boulevard
Camas, WA 98607

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AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Li, et al. :
Filed: January 12, 2004 : ON PETITION
Application No. 10/755,419 :
Attorney Docket No.: SLA 0827 :

This decision is in response to the "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION," filed May 21, 2004, requesting that the above-identified application be accorded a filing date of January 12, 2004.

The petition is hereby **GRANTED**.

The above-identified application was filed January 12, 2004. The Notice of Omitted Parts in a Nonprovisional Application ("Notice") mailed April 29, 2004 indicated that Figures 8A and 8B appeared to have been omitted from the application as filed.

The Notice permits applicant to either: (1) establish prior receipt in the PTO of page 7 of the specification; (2) submit the omitted page of specification and accept the date of such submission as the application filing date. An assertion that the missing page of specification was in fact deposited in the PTO with the application papers must made by way of petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted item in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted item with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)); or (3) take no action thereby constructively accepting the application filed as in the USPTO without the omitted item. Failure to take any action requires amendment of the specification to cancel reference to the omitted item.

Petitioners contend that Figures 8A and 8B were, in fact, filed in the PTO on January 12, 2004, but that the figures were mislabeled. Petitioners contend that the figures 8A and 8B were in fact present but were inadvertently labeled Fig. 9A and 9B respectively.

A review of the original sheets of drawings filed confirms that they included one sheet labeled Fig. 9A and Fig. 9B. Petitioners have established that it was their intent to label the figures as Fig. 8A and Fig. 8B. Since it is obvious from the petition that no drawings were actually missing on January 12, 2004, and that applicant does not intend to file any additional sheets of drawings, the application will be processed using the 23 sheets of drawings filed on January 12, 2004.

However, the Notice was correct in advising applicant that Figures 8A and 8B appeared to have been omitted. Therefore, the Notice was properly mailed and will not be withdrawn.

The petition fee will not be refunded, since the petition was not necessary to correct any PTO error.

It is noted that a preliminary amendment to the specification that, *inter alia*, seeks to correct the numbering of the mislabeled drawing figures has been filed.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of January 12, 2004, using the 23 sheets of drawings filed on that date.

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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Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

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JUL 28 2006

OFFICE OF PETITIONS

In re Application of

Michael L. FRIMER
Application No. 10/755,422
Filed: January 12, 2004
Attorney Docket No. D0188.70144US00

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 3, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, assignee terminated agreement, does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272- 7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Michael Lewis Frimer
150-6180 Blundell Road, Richmond,
British Columbia, Canada V7C 4W7

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Jason M. Honeyman
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210

In re Application of

FRIMER
Application No. 10/755,422
Filed: January 12, 2004
Attorney Docket No. D0188.70144US00

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 14, 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 Shannon Pratt on behalf of all attorneys of record who are associated with customer No. 23628. All attorneys/agents associated with the Customer Number 23628 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 first named signing inventor at the address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Michael Lewis Frimer, M.D.**
150-6180 Blundell Road, Richmond
British Columbia, Canada V7C 4W7

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/755,422	01/12/2004	Michael Lewis Frimer	D0188.70144US00

CONFIRMATION NO. 2063

OC000000020756969

Jason M. Honeyman
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

Date Mailed: 10/10/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/14/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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HOWARD M COHN
SUITE 220
21625 CHAGRIN BLVD
CLEVELAND OH 44122

In re Application of	:	
Cavalotti, et al.	:	
Application No. 10/755,431	:	ON PETITION
Filed: January 12, 2004	:	
Attorney Docket No. DN2001174DO1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 19, 2006.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance mailed April 11, 2006. This Notice set a statutory period of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on July 12, 2006. A Notice of Abandonment was mailed on August 17, 2006.

The Office will 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.[1]

Here, petitioner has not fulfilled requirement (C). Petitioner has merely stated that the Notice of Allowance was received on September 11, 2006. However, petitioner has not supplied any evidence to support this assertion. The copy of the envelope presented on petition contains a USPS postmark date of April 11, 2006. The envelope does not contain a stamp showing the date of receipt at the correspondence address.

While the showing of record is not sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

---

[1] MPEP 710.06.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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HOWARD M COHN
SUITE 220
21625 CHAGRIN BLVD
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OFFICE OF PETITIONS

In re Application of	:	
Cavalotti, et al.	:	
Application No. 10/755,431	:	ON PETITION
Filed: January 12, 2004	:	
Attorney Docket No. DN2001174DO1	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed November 10, 2006.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance mailed April 11, 2006. This Notice set a statutory period of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on July 12, 2006. A Notice of Abandonment was mailed on August 17, 2006. Applicants filed a petition to withdraw the holding of abandonment on September 19, 2006. However, the petition was dismissed in a decision mailed on November 2, 2006.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The required reply in the form of the issue and publication fees was previously filed on September 15, 2006.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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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LINIAK BERENATO & WHITE
6550 ROCK SPRING DRIVE, SUITE 240
BETHESDA, MD 20817

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of	:	
David Allen	:	
Application No. 10/755,463	:	DECISION GRANTING PETITION
Filed: January 13, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 5211.019	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned, by operation of law, for failure to timely pay the issue and publication fees on or before February 17, 2006, as required by the Notice of Allowance and Fee(s) Due mailed November 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 payment of the $700 issue fee and the $300 publication fee; (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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Liniak Berenato & White
Suite 240
6550 Rock Spring Drive
Bethesda, MD 20817

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JUN 29 2006
OFFICE OF PETITIONS

In re Application of	:	
David Allen	:	
Application No. 10/755,463	:	DECISION ON PETITION
Filed: January 13, 2004	:	TO WITHDRAW
Attorney Docket No. 5211.019	:	FROM RECORD
	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R § 1.36(b), filed January 5, 2006. The request appears to have mistakenly identified U.S. Application No. 10/765,463 and not the above-identified application. Other status identifiers (the filing date and group art unit), however, indicate that the request was actually intended for U.S. Application No. 10/755,463. Based on this information, the request is being treated with respect to U.S. Application No. 10/755,463. Petitioner must notify the Office if the request was **not** intended for the above-identified application.

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. Mr. Thomas Liniak has been withdrawn as an attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: William J. Deakin	: DECISION ON REQUEST FOR
Patent Number	: 7593867	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/755,492	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **630** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

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JUL 1 1 2006
OFFICE OF PETITIONS

In re Application of William D. Mckay et al. Application No. 10/755,494 Patent No. 6,981,291 Filed: January 12, 2004 Issue Date: January 3, 2006 Attorney Docket No. RBD-120-A Title: MOTORIZED CLEANING APPARATUS	DECISION ON PETITION UNDER 37 C.F.R. §1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 C.F.R §1.28(c).

37 C.F.R. §1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

(a) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
(b) The small entity fee actually paid, and when;
(c) The deficiency owed amount (for each fee erroneously paid); and
(d) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Petitioner has submitted the type of fee that was erroneously paid, the deficiency owed for the fee, and the total deficiency payment.

However, Petitioner has failed to identify the small entity fee which was actually paid, or when said fee was paid. Since this portion of the C.F.R. requires these identifications, the request cannot be accepted.

The petition under 37 C.F.R §1.28(c) must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.28(c)". 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 any renewed petition may be submitted by mail[1], hand-delivery[2], or facsimile[3].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.

Docket No.: 4316-092

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	:	William D. McKAY		
Serial No.	:	10/755,494	**Examiner** :	BALSIS, Shay L.
Filed	:	January 12, 2004	**Group Art Unit::**	1744
Patent No.	:	6,981,291		
For	:	MOTORIZED CLEANING APPARATUS		

BY FAX: (571) 273-8300

Attention: Office of Petition
Paul Shanoski, Senior Attorney

CONFIRMATION BY MAIL:

MAIL STOP PETITION
Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 C.F.R. 1.28(c)

Sir:

This Renewed Petition in submitted in response to a Decision issued by the Office of Petition of the US Patent Office on July 11, 2006 on Applicant's request for acceptance of a fee deficiency under 37 C.F.R. 1.28 (c) filed March 20, 2006. Copy of the Decision is attached hereto as Exhibit A.

The above-identified request was dismissed on a basis that Petitioner, i.e., Applicant in the above-identified application, has failed to identify the small entity fee which was

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actually paid, and when, as required by the portion of the 37 C.F.R. 1.28 (c) (ii)(B).

It is respectfully submitted that the small entity fee of $ 700.00 was paid to cover the required Issue Fee on October 6, 2005. The copies of the Part B-Fee(s) Transmittal as filed on October 6, 2005 and of the stamped postcard confirming receipt of the payment by the US PTO on October 11, 2005 are attached hereto as Exhibit B.

It is believed that the above statement of the undersigned applicant's attorney as well as the copies of the relevant pages submitted with this Renewed Petition and identifying the amount of the small entity fee actually paid and the specific date of payment satisfy requirements of 37 C.F.R. 1.28 (c).

Accordingly, reconsideration and favorable decision on this Renewed Petition are respectfully requested.

Respectfully submitted
GOTTLIEB, RACKMAN & REISMAN, P.C.

Dated: 8/10/06

Jeffrey M. Kaden
Attorney for Applicant
Registration No. 31,268

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OFFICE OF PETITIONS

KRIEG DEVAULT LLP
ONE INDIANA SQUARE SUITE 2800
INDIANAPOLIS IN 46204-2709

In re Application	: DECISION ON APPLICATION
McMurry, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 10/755,507	: AND NOTICE OF
Filed: January 12, 2004	: INTENT TO ISSUE
Patent No. 7,229,606	: CERTIFICATE OF CORRECTION
Issued: June 12, 2007	:

This is a decision on the "LETTER REGARDING PATENT TERM ADJUSTMENT", filed June 18, 2007.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **five hundred twenty-seven (527)** days.

On June 12, 2007, the above-identified application issued into US Patent No. 7,229,606, with a patent term adjustment of five hundred ninety (590) days. The Office determined a patent term adjustment of five hundred ninety (590) days based on an adjustment for PTO delay of five hundred eighty (580) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and ten (10) days pursuant to 35 U.S.C. 154(b)(1))(A)(iv) and 37 C.F.R. § 1.703(a)(6), reduced by zero (0) days of Applicant delay.

However, Patentees state that they should have been assessed applicant delay pursuant to 37 C.F.R. §1.704(c)(10) for filing a Rule 312 Amendment submitting drawings after the mailing of the Notice of Allowance. A review of the record indicates this is correct. The Office mailed a Notice of Allowance on December 4, 2006. Applicants filed the Rule 312 Amendment on April 11, 2007. The application issued into a patent on June 12, 2007.

37 C.F.R. 1.704(c)(10) states that the submission of an amendment under 37 CFR 1.312 or other paper after a Notice of Allowance has been mailed shall result in a reduction of patent term adjustment for the number of days "beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper." Accordingly, Applicant delay of sixty-three (63) days should have been assessed (April 11, 2006 to June 12, 2007). As a result, the patent term adjustment should be five hundred twenty-seven (527) days (590 days of PTO delay, reduced by 63 days of Applicant delay), not five hundred twenty-eight (528) days as pointed out by Patentees.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The matter is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 CFR 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by five hundred twenty-seven (527) days, subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,229,606 B2

DATED : June 12, 2007

INVENTOR(S) : McMurry, et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (590) days

Delete the phrase "by 590 days" and insert – by 527 days—

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE WA 98111-1247

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In re Patent of Schorr et al.	:	
Patent No. 7,013,433	:	
Issue Date: March 14, 2006	:	Decision on Petition
Application No. 10/755,511	:	
Filing Date: January 12, 2004	:	
Attorney Docket No. 418268832US	:	

This decision in response to the petition under 37 CFR 1.182 filed June 5, 2006.

The petition is **granted**.

The instant petition and the paper entitled, "Applicants' Statement Regarding a Non-Public Use" will be retained in the file wrapper.

The Office has not substantively reviewed the paper or made any determination of the extent to which the statement does or does not have any bearing on the patentability of the claims.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

TAYLOR & AUST, P.C.
P.O. Box 560
142. S Main Street
Avilla IN 46710

In re Application of :
Richard J. Oen :
Application No. 10/755,526 : DECISION ON PETITION
Filed: January 12, 2004 :
Attorney Docket No. M-262 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 4, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely pay the issue and publication fees on or before June 8, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed March 8, 2006. Accordingly, the application became abandoned on June 9, 2006. A Notice of Abandonment was mailed on July 11, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over two

years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on June 9, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Randall J. Knuth was counsel of record at the time of abandonment, he should explain why this application became abandoned while it was under their control and what efforts he made to further reply of itself and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from the responsible person(s) involved with this application at the time of abandonment. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in

seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost three years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

By Internet: EFS-Web[1]

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH MI 49085

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OFFICE OF PETITIONS

In re Application of	:
Blake et al.	: DECISION DISMISSING PETITION
Application No. 10/755,547	: UNDER 37 CFR 3.81(b)
Filed: 12 January, 2004	:
Attorney Docket No. US20020201	:

This is a decision on the petition, filed on 26 September, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

Petitioners state that the assignee data was inadvertently omitted from the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioners request leave to correct the assignee data.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* Official Gazette of June 22, 2004

It is noted that Application No. 10/755,547 issued as U.S. Patent No. 6,929,250 on 16 August, 2005.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to WHIRLPOOL CORPORATION has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that WHIRLPOOL CORPORATION was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth WHIRLPOOL CORPORATION, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Counsel's deposit account will be charged the request fee of $130.00 required by 37 CFR 1.17(f). The balance of the $400.00 fee paid will be credited to counsel's deposit account, No. 23-1660.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3231.

After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions pertinent thereto should be directed to the Certificates of Correction Branch at (703) 305-8309.

D Wood

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Office of Petitions