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MAY 31 2006

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

In re Application of	:
Luedtke et al.	:
Serial No.: 10/755,555	: SUSPENSION OF ACTION
Filed: January 12, 2004	:
Attorney Docket No.: P06261US01 - PHI 1325	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicants' request for a period of six months, filed March 30, 2006.

A review of the file history shows that this is an unexamined application. Applicants request that action on this application be suspended for six months in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicants' petition requests suspension in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee. No indication is given as to when these cases were filed, their status or approximate date of decision or resolution, nor how any decision would affect prosecution or patentability in this application. Also, in the instant case, no issues have as yet been developed and the issues ultimately developed may not be the same as those at the Board of Appeals. Further, it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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PIONEER HI-BRED INTERNATIONAL, INC.
7250 NW 62ND AVENUE
P.O. BOX 552
JOHNSTON IA 50131-0552

In re Application of :
Luedtke et al. :
Application No. 10/755,555 : DECISION ON PETITION
Filed: January 12, 2004 :
Attorney Docket No. P06261US01- PHI 1325 :

This is a decision on the petition filed May 1, 2007 requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed December 28, 2006 be withdrawn. The $400 petition fee will be charged to deposit account 26-0084.

The petition is granted.

Petitioners assert that, the terminal disclaimer filed for patent 6,232,535 was filed in error. The undersigned has consulted with the examiner in charge of this application, and has found that the examiner concurs with petitioners' assertion. Accordingly, the terminal disclaimer is withdrawn.

This application is being referred to Art Unit 1638 for correction of palm and file records consistent with this decision. Thereafter, the application will be referred to the Office of Patent Publication for further processing.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-3215

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OCT 5 2004

In re Application of	:	
Terrel E. Kuhn	:	DECISION ON PETITION
Application No. 10/755,560	:	
Filed: January 9, 2004	:	
Attorney Docket No. H0005432-1170	:	

This is a decision on the petition to make special filed on January 9, 2004. The petition is based upon the practice described in MPEP § 708.02(VIII) "Accelerated Examination." The $130.00 petition fee has been paid.

The petition is granted.

The petition to make special based upon the practice in the above mentioned MPEP section is deemed to satisfy all of the requirements thereof. Accordingly, the examiner will treat this application as special throughout its prosecution, in accordance with the examining practice set forth in items (A)-(E) on page 700-130 of the MPEP. Prior to the next action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3746 is being informed of this decision, and will advise the examiner to take future action consistent therewith.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Technology Center 3700

HONEYWELL INTERNATIONAL, INC.
LAW DEPT. AB2
P.O. BOX 2245
MORRISTOWN, NJ 07962-9806

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P O BOX 1927
SPARTANBURG, SC 29304

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OFFICE OF PETITIONS

In re Application of :
Kohlman et al :
Application No. 10/755,561 : DECISION ON PETITION
Filed: January 12, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 5606 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 14, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/440,056, filed January 14, 2003 and Application No. 60/454,565, filed March 14, 2003.

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 12, 2004, within twelve months of the filing date of the above-noted, prior-filed provisional applications, for which priority is claimed. A reference to the above-noted, prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the above-noted, prior-filed provisional applications 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 the above-noted, prior-filed provisional applications is granted.

The granting of the petition to accept the delayed benefit claim to the above-noted, prior-filed provisional applications 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 provisional applications. In order for the instant application to be entitled to the benefit of the prior-filed provisional applications, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. 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 of the provisional applications.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

The application is being referred to the Office of Patent Initial Examination Division for preexamination processing and for mailing of a Filing Receipt.

Frances Hicks

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

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

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In re Patent No. 7,019,066	:	
Masson et al.	:	
Issue Date: March 28, 2006	:	LETTER REGARDING
Application No. 10/755,592	:	PATENT TERM ADJUSTMENT
Filed: January 12, 2004	:	
Atty Docket No.A33918-I 070337.0360:		

This letter responds to the portion of the request for CERTIFICATE OF CORRECTION UNDER RULES 322 AND 323, filed June 27, 2006, which requests correction of the patent term adjustment indicated on the patent from 195 days to 185 days.

The request for correction of the patent term adjustment is **DISMISSED**.

On September 13, 2005, the Office mailed a 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 185 days. After the mailing of the notice of allowance, an additional period of 10 days of adjustment was accrued for Office delay pursuant to §1.702(a)(4). The issue fee payment was received in the Office on November 18, 2005 (and all outstanding requirements thereby met); however, the patent did not issue until March 28, 2006, four months and 10 days later. There was no basis for entry of any period of reduction for Applicant delay.

Patentees submit no basis for a conclusion that the entry of this 10-day adjustment is incorrect. Nor does the record support such a conclusion.

In view thereof, it is concluded that the patent correctly issued with a revised patent term adjustment of 195 days.

Given that patentees were attempting to disclose that they were given more patent term adjustment than they were entitled to, this request was treated pursuant to comment 43 of the Final Rule. See *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). Patentees are reminded that a request for correction of the patent term adjustment indicated in a patent (other than pursuant to comment 43) is by way of a request for reconsideration of the patent term adjustment under §1.705(d). Such a request must be filed within 2 months of the issue date of the patent and must include payment of the fee pursuant to §1.18(e).

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 fee under 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

Telephone inquiries specific 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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AMD-MKE C/O FOLEY LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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In re Application of :
Qi Xiang et al. :
Application No. 10/755,602 : ON PETITION
Filed: January 12, 2004 :
Attorney Docket No: 039153-0693(H1718)

This is a decision on the petition under 37 CFR 1.47(a) filed August 4, 2006, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR § 1.131 where it requires that an affidavit be executed by the named inventors.[1]

The petition under 37 CFR 1.183 is **GRANTED**.

The above-identified application was filed on January 12, 2004. At the time of filing, applicant submitted a 37 CFR 1.63 declaration signed by all of the inventors. A non-final Office action was mailed on April 6, 2006. This office action set a shortened statutory period for reply of three months.

In response, on June 16, 2005, with a one month extension of time,applicant submitted a reply and a declaration under 37 CFR 1.131. The 37 CFR 1.131 declaration stated that all of the inventors were responsible for reduction to practice of the subject matter of the rejected claims prior to the date of the reference on which the April 6, 2006 rejection was based. However, the 37 CFR 1.131 declaration was signed by all joint inventors except joint inventor Qi Xiang. Applicant has filed the instant petition to have the 37 CFR 1.131 declaration entered despite the fact that the declaration was not signed by joint inventor Xiang.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the **inventor** of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.[2]

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter

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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.

[2] 37 CFR 1.131(a) (emphasis added).

of the claim or claims under rejection."[3]

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, the instant application is not the subject of a patent under reexamination. Moreover, it has not been shown that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the only party eligible to sign the 37 CFR 1.131 declaration are all of the joint inventors including Xiang.

The petition bears proof that the declaration was mailed to Mr. Xiang at his last known address but in spite of the effort to have it executed, Mr. Xiang has failed to comply with the request.

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

The 37 CFR 1.131 declaration was required to be signed by all joint inventors but all except joint inventor Xiang have executed it. Applicant has demonstrated that a *bona fide* effort was made to have Mr. Xiange execute the declaration. Accordingly, it is concluded that petitioner has demonstrated that this is an extraordinary situation requiring waiver of the rules.

The 37 CFR 1.131 declaration will be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied.

It should be noted however, that effective November 22, 2004, the fee for a petition to waive the rules has been increased to $400.00. Therein, deposit account no. 06-1447 has been charged in the amount of $270.00 pursuant to 37 CFR 1.17(f), to make up the difference between that which was paid and that which was due. See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

The application file is being forwarded to Technology Center 2813 for consideration of the reply and the 37 CFR 1.131 declaration, filed August 4, 2006.

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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[3] MPEP 715.04.

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777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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In re Application of	:	
Xiang et al.	:	
Application No. 10/755,602	:	LETTER REGARDING
Filed: January 12, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 039153-0693	:	
(H1718)	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed June 18, 2008, pursuant to applicants' duty of good faith and candor to the Office. Applicants disclose that they disagree with the patent term adjustment indicated on the Notice of Allowance.

The request for review of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is ZERO (0) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

A review of the application record reveals that after having filed a response on March 19, 2007, on October 16, 2007, applicants submitted an Information Disclosure Statement (IDS). This IDS was not expressly requested by the examiner. This IDS did not include a §1.704(d) statement. Pursuant to 1.704(c)(8), a period of reduction of 211 days, counting the number of days beginning on the day after the date the initial reply was filed, March 20, 2007 and ending on the date that the IDS was filed, October 16, 2007, is being entered.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is ZERO (0) days. As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for issuance of the application.

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 adjusted PAIR calculation

PTA Calculations for Application: 10/755602			
Application Filing Date:	01/12/2004	PTO Delay (PTO):	319
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	150
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-211		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
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58	03/25/2008	MAIL NOTICE OF ALLOWANCE			
57	03/19/2008	DOCUMENT VERIFICATION			
56	03/19/2008	ISSUE REVISION COMPLETED			
55	03/19/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
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53	03/17/2008	NOTICE OF ALLOWABILITY			
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48	10/16/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
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37	10/30/2006	RESPONSE AFTER NON-FINAL ACTION		87	28
36	10/18/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
35	09/13/2006	MAIL-PETITION DECISION - GRANTED			

33	08/04/2006	PETITION ENTERED			
32	08/04/2006	REFERENCE CAPTURE ON IDS			
31.7	08/04/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	08/04/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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26	04/06/2006	MAIL NON-FINAL REJECTION	14		22
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24	11/03/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	12/02/2005	DATE FORWARDED TO EXAMINER			
22	11/23/2005	RESPONSE TO ELECTION / RESTRICTION FILED		34	17
21	11/03/2005	REFERENCE CAPTURE ON IDS			
20.7	11/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	11/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	10/26/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
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17.1	10/20/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
17	10/20/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
16	10/20/2005	NEW OR ADDITIONAL DRAWING FILED			
15	09/28/2005	MAIL RESTRICTION REQUIREMENT	200		-1
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13	12/22/2004	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
12	05/07/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	04/21/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	04/21/2004	CASE DOCKETED TO EXAMINER IN GAU			

9	04/16/2004	APPLICATION RETURN FROM OIPE			
8	04/16/2004	APPLICATION RETURN TO OIPE			
7	04/15/2004	APPLICATION DISPATCHED FROM OIPE			
6	04/16/2004	APPLICATION IS NOW COMPLETE			
5	01/12/2004	PGPUBS NONPUB REQUEST			
4	03/03/2004	CLEARED BY OIPE CSR			
3	03/03/2004	CASE CLASSIFIED BY OIPE			
2	01/29/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/12/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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C/O FOLEY LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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OFFICE OF PETITIONS

In re Patent No. 7,462,549 :
Xiang et al. : DECISION ON REQUEST FOR
Issue Date: December 9, 2008 : RECONSIDERATION OF
Application No. 10/755602 : PATENT TERM ADJUSTMENT
Filed: January 12, 2004 :
Attorney Docket No. :
039153-0693 (H1718) :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed February 6, 2009. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The application for reconsideration of patent term adjustment is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,462,549 on December 9, 2008. The patent issued with a patent term adjustment of 216 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the patent term adjustment determination for the above-identified patent be changed from 216 days to 427 days.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 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.

The copy of the "Patent Term Adjustment Calculation System" printout submitted by patentees sets forth a period of

adjustment for Office delays totaling 911 days (Three Year Delay under 37 CFR 1.703(b) of 697 days *plus* a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 214 days). The printout also sets forth an overlap of 157 days. The printout also reflects a reduction of patent term adjustment totaling 484 days for applicants' failure to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. Thus, patentees assert entitlement to an overall adjustment of 427 days (911 days for Office delays *less* 484 days for applicants' delays).

Patentees' printout acknowledges the adjustments under 37 CFR 1.702(a) totaling 371 days. Patentees' printout also acknowledges the reductions for applicants' failure to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. These reductions total 481 days. It is noted that patentees' own calculation of the period of reduction in connection with the amendment under 37 CFR 1.312, filed June 18, 2008, errantly sets forth a reduction of 123 days. The correct reduction in this regard is 120 days. See, 37 CFR 1.704(c)(10)(ii).

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 during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704.

The Office agrees that as of the issuance of the patent on December 9, 2008, the application was pending three years and 697 days after its filing date. The Office agrees that because certain actions were not taken within specified time frames, the patent is entitled to an adjustment of 371 days pursuant to 37 CFR 1.702(a). At issue is whether patentees should accrue an additional 697 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 371 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 371 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

> Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

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

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

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not

> be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, January 12, 2004, to the date the patent issued on December 9, 2008. Prior to the issuance of the patent, 371 days of patent term adjustment were accorded for the Office failing to respond within specified time frames during the pendency of the application. The 371 days accorded pursuant to 37 CFR 1.702(a) overlap with the 697 days of Office delay under 37 CFR 1.702(b).

The application actually issued three years and 697 days after its filing date. The Office did not delay 371 days and then delay an additional 697 days. Accordingly, 697 days of patent term adjustment (not 371 days and 697 days) was properly entered because the period of delay of 697 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 371 days attributable to grounds specified in § 1.702(a). Entry of both periods is not warranted. Thus, 697 days, which includes the 371 days pursuant to 37 CFR 1.702(a), is determined to be the actual number of days that the issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered an overall adjustment of 697 days of patent term adjustment for the Office taking in excess of three years to issue the patent.

---

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

In view thereof, no adjustment to the patent term will be made because the correct adjustment of 216 days is properly set forth in the Letters Patent (adjustments totalling 697 days less reductions totalling 481 days).

The Office acknowledges submission of the required $200.00 application fee. See, 37 CFR 1.18(e).

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

Alesia Brown
Petitions Attorney
Office of Petitions

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AMD-MKE C/O FOLEY LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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MAR 15 2010

OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST FOR
Xiang et al.	:	RECONSIDERATION OF
Patent Number: 7,462,549	:	PATENT TERM ADJUSTMENT
Issue Date: 12/09/2008	:	and
Application No. 10/755602	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 01/12/2004	:	CERTIFICATE OF CORRECTION
Attorney Docket Number: 039153-0693 (H1718)	:	

This is a decision on the renewed petition filed on July 24, 2009, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred twenty-seven (427) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred twenty-seven (427) days is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The four (4) month reduction of the patent term pursuant to 37 CFR 1.704(c)(10) in connection with the Amendment under 37 CFR 1.312, filed June 18, 2008, is 120 days, not 123 days. As such, the patent is extended or adjusted by 430 days, not 427 days.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred thirty (430) days**.

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

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,462,549 B2

DATED : **December 9, 2008**

INVENTOR(S) : Xiang 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 216 days.

Delete the phrase "by 216 days" and insert – by 430 days--

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Alexandria, VA 22313-1450
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MAY - 9 2006

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

In re Application of	:	
Robert Mohror	:	
Serial No.: 10/755,622	:	SUSPENSION OF ACTION
Filed: January 12, 2004	:	
Attorney Docket No.: P06269US01 - PHI 1203	:	

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed March 30, 2006.

A review of the file history shows that this is an unexamined application. Applicant requests that action on this application be suspended for six months in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicant's petition requests suspension in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee. No indication is given as to when these cases were filed, their status or approximate date of decision or resolution, nor how any decision would affect prosecution or patentability in this application. Also, in the instant case, no issues have as yet been developed and the issues ultimately developed may not be the same as those at the Board of Appeals. Further, it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

George Elliott
Director, Technology Center 1600

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OFFICE OF PETITIONS

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

In re Application of: : DECISION ON REQUEST
Hasegawa et al. : FOR REVIEW OF
Application No. 10/755640 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 01/12/2004 :
Atty Docket No. 9281-4736 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed October 12, 2006. Pursuant to patentee's duty of good faith and candor to the Office, patentee requests confirmation of the issuance of a patent term adjustment of 2 days.

The request for review of the determination of patent term adjustment (PTA) 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 **zero (0) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 11, 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 seven (7) days.

The Office initially determined a patent term adjustment of seven (7) days based on an adjustment for PTO delay of nine (9) days pursuant to 37 C.F.R. § 1.702(a)(1), reduced by two (2) days of applicant delay pursuant to 37 C.F.R. 1.704(b).

37 C.F.R. § 1.704(c)(8) states:

> (8) Submission of a supplemental reply or other paper, other than a supplemental 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;

Applicant should have been assessed additional delay of twenty (20) days pursuant to 37 C.F.R. § 1.704(c)(8). Applicant filed an Amendment on April 4, 2006, and in response this Office mailed a Notice of Non-Compliant Amendment ("Notice") on April 13, 2006. Applicant filed an amendment in response to the Notice on April 24, 2006, which was twenty (20) days after the filing of the Amendment filed April 4, 2006.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days** (9 days of PTO delay, reduced by 22 (2+20) days of applicant delay), subject to any terminal disclaimer.

Given the basis for granting this petition, no fee has been charged. The Office thanks applicants for their candor and good faith in bringing this matter to the attention of the Office.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Updated PAIR Screen

Day : Wednesday

PALM INTRANET

Date: 5/2/2007
Time: 10:57:16

PTA Calculations for Application: 10/755640			
Application Filing Date:	01/12/2004	PTO Delay (PTO):	9
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	2
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-20		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
53	05/02/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		20	
45	08/11/2006	MAIL NOTICE OF ALLOWANCE			
44	08/11/2006	MAIL EXAMINER'S AMENDMENT			
43	08/11/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
42	07/07/2006	ISSUE REVISION COMPLETED			
41	07/07/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	07/07/2006	CASE DOCKETED TO EXAMINER IN GAU			
39	06/28/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
38	07/07/2006	EXAMINER'S AMENDMENT COMMUNICATION			
37	07/07/2006	NOTICE OF ALLOWABILITY			
36	04/26/2006	DATE FORWARDED TO EXAMINER			
35	04/24/2006	RESPONSE AFTER NON-FINAL ACTION			
34	04/13/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
33	04/11/2006	NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT.			
32	04/11/2006	DATE FORWARDED TO EXAMINER			
31	04/04/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
30	04/11/2006	DATE FORWARDED TO EXAMINER			
29	04/04/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
28	04/11/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
27	04/04/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			

26	01/09/2006	MAIL FINAL REJECTION (PTOL - 326)			
25	01/06/2006	FINAL REJECTION			
24	10/25/2005	DATE FORWARDED TO EXAMINER			
23	10/14/2005	RESPONSE AFTER NON-FINAL ACTION		2	22
22	07/12/2005	MAIL NON-FINAL REJECTION			
21	07/08/2005	NON-FINAL REJECTION			
20	05/04/2005	DATE FORWARDED TO EXAMINER			
19	04/21/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
18	03/21/2005	MAIL RESTRICTION REQUIREMENT	9		-1
17	03/16/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
16	01/12/2004	REFERENCE CAPTURE ON IDS			
15	08/16/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	08/16/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	01/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	01/12/2004	PRELIMINARY AMENDMENT			
11	04/16/2004	APPLICATION RETURN FROM OIPE			
10	04/16/2004	APPLICATION RETURN TO OIPE			
9	04/15/2004	APPLICATION RETURN FROM OIPE			
8	04/16/2004	APPLICATION IS NOW COMPLETE			
7	04/15/2004	APPLICATION RETURN TO OIPE			
6	04/15/2004	APPLICATION DISPATCHED FROM OIPE			
5	04/15/2004	APPLICATION IS NOW COMPLETE			
4	03/03/2004	CLEARED BY OIPE CSR			
3	03/03/2004	CASE CLASSIFIED BY OIPE			
2	01/28/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/12/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080207

DATE : February 07, 2008

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction on Patent No.: 7,229,706

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

SPE: R. Dye Art Unit 1794

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OFFICE OF PETITIONS

In re Application of	:	
Hasegawa et al.	:	
Application No. 10/755641	:	DECISION ON APPLICATION
Filed: 01/12/2004	:	FOR PATENT TERM ADJUSTMENT
Patent No. 7,218,485	:	
Issued: 05/15/2007	:	
Attorney Docket Number:	:	
9281-4745	:	

This is a decision on the "Request for Reconsideration of Patent Term Adjustment", filed July 6, 2007. Patentee requests, pursuant to 37 CFR 1.703(b), an additional period of adjustment of one hundred twenty-three (123) days.

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

Patentee is given **two (2) months** to respond to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136.

On April 24, 2007, the above-identified application matured into U.S. Patent No. 7,218,485. The patent issued with a PTA of five-hundred thirty (530) days.

The Office determined a patent term adjustment of five-hundred thirty (530) days pursuant to 37 CFR 1.702(a)(1) for failure to mail a first Office action of Notice of Allowance more than 14 months after the actual filing date of the application or more than 14 months after the date the application fulfilled the requirements of 35 U.S.C. 371. Specifically, the application was filed on January 12, 2004. The Office mailed a first Office action on August 24, 2006.

Petitioner files the present petition and asserts that pursuant to 37 CFR 1.703(b) an additional period of adjustment of one hundred twenty-three (123) days. Petitioner states that the present application was filed on January 12, 2004. The 3 year date specified in 37 CFR 1.703(b) is January 12, 2007. The PTO issued a patent for the present application on May 15, 2007. The difference between the 3 year date and the date the patent issued is 123 days. As such, patentee concludes that the period of adjustment should be at least 530 days + 123 days = 653 days.

Patentee is advised that 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. Further, in considering the overlap, 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). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of delay totalling 123 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 530 attributable to grounds specified in § 1.702(a)(1). Thus, no additional period of adjustment was entered beyond the 530 days.

In view thereof, the patent correctly issued with a revised Patent Term Adjustment of five hundred thirty (530) days.

Petitioner's deposit account has been charged the $200.00 fee set forth in 37 CFR 1.18(e) as authorized in the Transmittal filed with the petition. No additional fees are required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MICHAEL E. MARTIN
THE TRANE COMPANY
PATENT DEPT. 12-1
3600 PAMMEL CREEK ROAD
LA CROSSE WI 54601

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OFFICE OF PETITIONS

In re Application of :
Robert W. Helt :
Application No. 10/755,643 : DECISION ON PETITION
Filed: 12 January, 2004 :
Atty Docket No. TIR 2735 :

This is a decision on the petition filed on 25 August, 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 23 May, 2005, for failure to timely reply to the non-final Office action mailed on 22 February, 2005, which set a three (3) month shortened period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

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.

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 25 August, 2005, was submitted more than six (6) months after the mailing date of the Office action mailed on 22 February, 2005, and therefore is unnecessary. The extension of time fee paid on 25 August, 2005, will be credited to counsel's deposit account, No. 20-1434 as authorized.

This application is being referred to Technology Center 3744 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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MICHAEL E. MARTIN
THE TRANE COMPANY
PATENT DEPT. 12-1
3600 PAMMEL CREEK ROAD
LA CROSSE WI 54601

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OFFICE OF PETITIONS

In re Application of :
Robert W. Helt :
Application No. 10/755,643 : DECISION GRANTING PETITION
Filed: January 12, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. TIR 2735 :

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

The petition is **GRANTED**.

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

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of March 20, 2006 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,020 extension of time submitted with the petition on October 10, 2006 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A

copy of this decision should accompany petitioner's request.

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

This matter is being referred to Technology Center AU 3744.

Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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FRANK L. HART
8911 S. 73RD EAST AVE.
TULSA, OK 74133

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DEC 15 2004

OFFICE OF PETITIONS

In re Application of :
Gary D. Otto :
Application No. 10/755,652 : ON PETITION
Filed: November 13, 2004 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed June 24, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 25, 2004.

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

This matter is being forwarded to the Publishing Division.

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

17 MAR 2006

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

In re Application of	:
HEIM et al.	:
Application No. 10/755,677	: DECISION ON PETITION
Filed: January 13, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 532622003000	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 06 May 2005 to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/07527, filed 05 July 2002, set forth in the amendment submitted concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii).[1] Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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

(1) the reference 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

---

[1]The reference to the international application in the Utility Patent Application Transmittal letter is not a sufficient reference, as asserted in the Petition, as it fails to identify the relationship to the international application and is not in the first sentence of the specification or in an application data sheet, as required under 37 CFR 1.78(a)(2).

require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been charged to applicant's deposit account per his authorization; 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 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Cynthia Kratz at (571) 272-3286. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the examiner of Technology Center Art Unit 1638 for appropriate action on the amendment filed 06 May 2005, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§120 and 365(c) to the prior-filed PCT application.

Boris Milef
Legal Examiner
Office of Petitions and
PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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MAY 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert P. Julius, et al.	:	
Application No. 10/755,690	:	ON PETITION
Filed: January 12, 2004	:	
Attorney Docket No. NPP 3.0-015	:	

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.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 29, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 30, 2008. The Notice of Abandonment was mailed August 22, 2008.

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

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Robert P. Julius) was ever given a power of attorney to act on behalf of inventor, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

Brian Brown
Petitions Examiner
Office of Petitions

cc: **Robert P. Julius**
Nice-Pak Products, Inc.
Two Nice-Pak Park
Orangeburg, NY 10962

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WESTFIELD NJ 07090

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AUG 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert P. Julius, et al.	:	
Application No. 10/755,690	:	ON PETITION
Filed: July 12, 2004	:	
Attorney Docket No. NPP 3.0-015	:	

This is a decision on the petition under the renewed unintentional provisions of 37 CFR 1.137(b), filed July 14, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 28, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 30, 2008. The Notice of Abandonment was mailed August 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 3653 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Williams
Petitions Examiner
Office of Petitions

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P.O. BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Patent No. 7,212,383	:	
Hasegawa et al.	:	DECISION ON REQUEST
Issue Date: May 1, 2007	:	FOR RECONSIDERATION OF
Application No. 10/755,698	:	PATENT TERM ADJUSTMENT
Filed: January 12, 2004	:	
Atty Docket No. 9281-4737	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed July 2, 2007. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 688 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On May 1, 2007, the above-identified application matured into U.S. Patent No. 7,212,383. The instant request for reconsideration was timely filed on July 2, 2007. The patent issued with a revised Patent Term Adjustment of 579 days.

Patentees request that the revised Patent Term Adjustment be corrected from 579 days to 688 days. Specifically, patentees assert that a period of adjustment of 109 days should be entered for the Office taking in excess of three (3) years to issue the patent.

The instant patent issued 3 years and 109 days after its filing date. However, 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. Further, in considering the overlap, 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). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

In this instance, the period of delay of 109 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 579 days attributable to grounds specified in § 1.702(a)(1). Thus, no additional period of adjustment beyond 579 days was entered. Accordingly, the period of 579 days for Office delay is correct.

In view thereof, the patent term adjustment of **579 days** indicated in the patent is correct.

The Office will charge the Deposit Account for the $200.00 fee set forth in 37 CFR 1.18(e) as authorized.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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BLANK ROME, LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

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NOV 24 2009

OFFICE OF PETITIONS

In re Application of
Jeffrey P. Leventhal
Application No. 10/755,727
Filed: January 12, 2004
Attorney Docket No. 123579-00102

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 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 November 17, 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 regarding 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 3627 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.*

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WATERGATE
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WASHINGTON DC 20037

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JAN 22 2010

In re Application of	:	
Jeffrey P. Leventhal	:	
Application No. 10/755,727	:	DECISION GRANTING PETITION
Filed: January 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 123579-00102	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 20, 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 6, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3627 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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MCCRACKEN & FRANK LLP
200 W. ADAMS STREET
SUITE 2150
CHICAGO, IL 60606

MAIL

MAY 12 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
James L. Warmus, et al.
Application No. 10/755,743
Filed: January 12, 2004
For: IMPOSITION PROCESS AND APPARATUS FOR VARIABLE IMAGING SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 1, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition fails to meet requirements (5) and (6). The Information Disclosure Statement (IDS) filed February 2, 2004 fails to provide a copy of each reference. Currently there are no copies of any cited prior art of record in this application. In accordance with MPEP 708.02, each application must meet its own requirements for special status. Therefore copies of relevant references having been provided in related cases is not sufficient. Furthermore, petitioner fails to fully discuss each reference, pointing out with particularity how the claimed subject matter is patentable over each reference. Generic references such as "none of the prior art" fails to meet this requirement.

Accordingly, the petition is **DENIED**.

Petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should include a copy of each of the references most closely related to the subject matter encompassed by the claims. Also, the request for reconsideration should fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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JUL 2 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MCCRACKEN & FRANK LLP
200 W. ADAMS STREET
SUITE 2150
CHICAGO IL 60606

In re Application of :
James L. Warmus, et al. :
Application No. 10/755,743 : DECISION ON PETITION
Filed: January 12, 2004 : TO MAKE SPECIAL
For: IMPOSITION PROCESS AND APPARATUS :
FOR VARIABLE IMAGING SYSTEM :

This is a decision on the request for reconsideration of petition to make special filed June 14, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner's request for reconsideration taken together with the petition to make special, filed on April 1, 2004 meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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OFFICE OF PETITIONS

HANLEY, FLIGHT & ZIMMERMAN LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO, IL 60606

In re Patent No. 6,844,940
Issue Date: January 18, 2005
Application No. 10/755,743
Filed: January 12, 2004
Attorney Docket No. 27600/X046A

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed May 29, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 18, 2009, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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 Diane Goodwyn at (571) 272-6735.

The patent file is being forwarded to Files Repository.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: CATO YANG
MCCRACKEN & FRANK LLP,
311 S. WACKER DRIVE,
SUITE 2500
CHICAGO, IL 60606

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MILWAUKEE WI 53202-5367

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APR 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Qi Xiang	:	
Application No. 10/755,746	:	DECISION GRANTING PETITION
Filed: January 12, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 039153-5003(G0167)	:	

This is a decision on the petition, filed January 12, 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 January 14, 2004, and March 11, 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 May 5, 2005, was mailed on January 24, 2005.

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

This matter is being referred to Technology Center Art Unit 2813 for examination in due course.

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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www.uspto.gov
DRW Dec-07

STEFAN V. CHMIELEWSKI
DELPHI TECHNOLOGIES, INC.
LEGAL STAFF MC CT10C
P.O. BOX 9005
KOKOMO IN 46904-9005

COPY MAILED

DEC 19 2007

OFFICE OF PETITIONS

In re Application of :
Louis L. Nagy :
Application Number: 10/755814 : DECISION ON PETITION
Filing Date: 01/12/2004 :
Attorney Docket Number: DP-309796 :

This is a decision on the petition filed on October 22, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on April 18, 2007, for failure to timely file a response to the non-final Office action mailed on January 17, 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. On August 8, 2007, Notice of Abandonment was mailed.

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 (3)-month extension request filed on October 22, 2007, was submitted more than three (3) months after the end of the period for reply to the non-final Office action mailed on January 17, 2007, and therefore is unnecessary. The extension of time fee paid on October 22, 2007, will be credited to counsel's deposit account as authorized.

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. Petitioners should file a change of correspondence address if the correspondence address is to be changed.

This application is being referred to Technology Center Art Unit 2618 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

J. GORDON LEWIS
DELPHI TECHNOLOGIES, INC.
P.O. BOX 5052
M/C: 480-410-202
TROY MI 48007-5052

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN TX 78758

MAILED

MAR 0 4 2009

OFFICE OF PETITIONS

In re Application of :
Burkhart et al. :
Application Number: 10/755822 :
Filing Date: 01/12/2004 : ON PETITION
Attorney Docket Number: :
AUS920030812US1 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on January 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on January 16, 2009, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on October 15, 2008, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on January 30, 2009.

---

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

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

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

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

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

Receipt of the issue and publication fee payment on January 21, 2009, is acknowledged.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

H. ARTOUSH OHANIAN
PO BOX 1469
AUSTIN TX 78767-1469

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/755,843	01/12/2004	1753	0.00	5051-668	6	37	2

CONFIRMATION NO. 8437

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

CORRECTED FILING RECEIPT

OC000000012645065

Date Mailed: 05/13/2004

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

Applicant(s)

Orlin Velev, Cary, NC;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/439,624 01/13/2003

Foreign Applications

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

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Droplet transportation devices and methods having a fluid surface

Preliminary Class

204

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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RANDALL B. BATEMAN
BATEMAN IP LAW GROUP
8 EAST BROADWAY, SUITE 550
P.O. BOX 1319
SALT LAKE CITY, UTAH 84110

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Walter M. Bain :
Application No. 10/755,849 : DECISION ON PETITION
Filed: January 12, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1311.APT.CI

This is a decision on the petition filed December 20, 2004, which is being treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/655,704, as set forth in the amendment filed October 7, 2004.

The petition is **GRANTED**.

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

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

The instant pending application was filed on January 12, 2004, and was pending at the time of filing of the instant petition. A reference to the above-noted prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after

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

37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.78 (a)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(3).

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.

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

This matter is being referred to Technology Center Art Unit 3653.

Frances Hicks

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Mail Date: 04/21/2010

Applicant	: Bryan M. Redler	: DECISION ON REQUEST FOR
Patent Number	: 7641912	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/755,860	: 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 **657** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

OIPE
DEC 03 2009
PATENT & TRADEMARK OFFICE

Attorney Docket No. 915-005.089
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of:

Ossi KALEVO	:	Confirmation No.: **1057**
Serial No.: **10/755,868**	:	Examiner: **A. WOLDEMARIAM**
Filed: **January 12, 2004**	:	Group Art Unit: **2609**

For: PROCESSING OF IMAGES USING A LIMITED NUMBER OF BITS

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

AMENDMENT AFTER FINAL ACCOMPANYING REQUEST FOR CONTINUED EXAMINATION

Sir:

In response to the final Office Action of September 4, 2009, please amend the application as follows:

CERTIFICATE OF MAILING

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

Cathy Sturmer

Dated: 12-1-09

OK TO ENTER!

A.W.

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

CHARLES E. BAXLEY, ESQ.
90 JOHN STREET
THIRD FLOOR
NEW YORK NY 10038

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AUG 2 9 2006

OFFICE OF PETITIONS

In re Application of
Feng Hsu
Application No.10/755,891
Filed: January 12, 2004

Attorney Docket No. 14173 B
Title of Invention: Adjustable Attachment Device for Attaching An Object To A Tubular Member

ON PETITION

This is a decision on the petition under 37 CFR §1.137(a), filed December 19, 2005 to revive the above-identified application.

This application became abandoned for failure to timely submit the a response to the non-final Office Action mailed on May 5, 2005. The notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 6, 2005. A Notice of Abandonment was mailed on November 18, 2005

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

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

Petitioner asserts that the non-final Office Action mailed on May 5, 2005 was never received. Petitioner states a search of the file jacket and docket records confirms the non-final Office Action was not received. In support of petitioner's contention, a copy of the docket records has been provided.

This application is being forwarded to Technology Center 3600 for review of the amendment submitted with the petition.

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

Charlema R. Grant

Petition Attorney

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEXMARK INTENATIONAL INC
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE RD
BLDG 082-1
LEXINGTON KY 40550-0999

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APR 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Beach, et al. :
Application No. 10/755,904 : ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. 2002-0794.00 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 3, 2006.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed May 17, 2005. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on August 18, 2005. A Notice of Abandonment was mailed on February 2, 2006.

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

The application file is being forwarded to Group Art Unit 1712 for consideration of the amendment filed March 3, 2006.

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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NUVELO, INC.
201 INDUSTRIAL ROAD
SUITE 310
SAN CARLOS, CA 94070

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Dramanc, et. al.	:	DECISION ON REQUEST
Application No. 10/755,921	:	TO WITHDRAW FROM
Filed: January 12, 2004	:	RECORD
Attorney Docket No. 30311/0083DIV	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 CFR § 1.36(b) or 37 CFR § 10.40 filed April 4, 2006.

The request is **NOT APPROVED**.

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

Since the Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed May 5, 2006 failed to contain the signature of co-inventor Radornir Crkvenjakov, it cannot be accepted.

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

Telephone inquires concerning this decision should be directed to Andrea Smith at 571-272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Radoje Dramanc
Callida Genomics
750 Pastoria Avenue
Sunnyvale, CA 94085

Marshall, Gerstein & Borun, LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, IL 60606

FILE C[illegible]

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/755,932	01/13/2004	3731	385	225929	8	4	1

CONFIRMATION NO. 3455

CORRECTED FILING RECEIPT

OC000000012614424

23460
LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

Date Mailed: 05/12/2004

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)

Steve T. Charles, Germantown, TN;
J. Michael Stuart, Corrales, NM;
Larry Bronisz, Los Alamos, NM;

Assignment For Published Patent Application

MicroDexterity Systems, Inc., Memphis, TN;

Domestic Priority data as claimed by applicant

This application is a CON of 10/050,241 01/16/2002 PAT 6,676,669
which claims benefit of 60/261,940 01/16/2001

Foreign Applications

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

Projected Publication Date: 08/19/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Surgical manipulator

Preliminary Class

606

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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LAW OFFICE OF DAVID H. JUDSON
15950 DALLAS PARKWAY
SUITE 225
DALLAS, TX 75248

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Patent No. 6,963,983 :
Issue Date: November 8, 2005 :
Application No. 10/755,948 : ON PETITION
Filed: January 13, 2004 :
Patentee(s) John C. Munson et al :

This is a decision on the petition under 37 CFR 1.378(c), filed December 30, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. **Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).** No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified patent issued on November 8, 2005. Therefore, the grace period in 35 U.S.C. § 41(b) for paying the 3½ maintenance fee expired on November 8, 2009.

35 U.S.C. § 41(c)(1) authorizes the Commissioner to accept a delayed maintenance fee payment within twenty-four (24) months after the expiration of the six-month grace period specified in 35 U.S.C. § 41(b) if the delay is shown to have been unintentional, and authorizes the Commissioner to accept a delayed maintenance fee payment at any time if the delay is shown to have been unavoidable. Thus, 35 U.S.C. § 41(c)(1) does not authorize the Commissioner to accept a delayed maintenance fee payment later than twenty-four (24) months after the expiration of the six-month grace period specified in 35 U.S.C. § 41(b) unless the delay is shown to have been unavoidable.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (2) and (3) above.

The deposit account provided with the petition on December 30, 2009 has an insufficient fund. Therefore, a petition for reconsideration cannot be treated until the $2530 balance (which includes the $400 petition for reconsideration fee; the $490 3½ maintenance fee; and $1640 surcharge after expiration) is received.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300 ATTN: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

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DEC 1 1 2006

OFFICE OF PETITIONS

In re Application of :
HELGESON, et al. :
Application No. 10/755,966 : DECISION ON PETITION
Filed: January 12, 2004 : TO WITHDRAW
Attorney Docket No. WARF-0235 : 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 25, 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 Patrick J. Farley on behalf of all attorneys of record who are associated with Customer No. 23377. All attorneys/agents associated with the Customer No. 23377 have been withdrawn.

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

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

A Review of the file discloses that a non-final Office action was mailed on September 28, 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 September 28, 2006 has been received.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **JOHN PAUL HELGESON**
809 ONEIDA PLACE
MADISON, WI 53711

cc: **DR. LAURA HEISLER**
INTELLECTUAL PROPERTY MANAGER
WISCONSIN ALUMNI RESEARCH FOUNDATION
PO BOX 7365
MADISON, WI 53707-7365

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/755,966	01/12/2004	John Paul Helgeson	WARF-0235

CONFIRMATION NO. 3588

OC000000021546798

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Date Mailed: 12/11/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/25/2006.

- 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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GREENBERG TRAURIG, LLP (SV2)
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA, CA 90404

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MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of
SKOMRA, Stewart A. et al.
Application No. 10/755,974
Filed: January 12, 2004
Attorney Docket No. **102063.00002**

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 October 08, 2008.

The request is **moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to GREENBERG TRAURIG, LLP (SV2) has been revoked by the assignee of the patent application on November 13, 2008 and resubmitted on January 23, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **SQUIRE, SANDERS & DEMPSEY L.L.P**
PATENT DEPARTMENT
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO CA 94111-3492

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ECOLAB INC.
MAIL STOP ESC-F7, 655 LONE OAK DRIVE
EAGAN, MN 55121

Mail Date: 04/20/2010

Applicant	: Mark D. Levitt	: DECISION ON REQUEST FOR
Patent Number	: 7655718	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/755,976	: 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 **1408** 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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JUL 21 2006

TECHNOLOGY CENTER 3600

Antonio R. Durando
6902 N. Table Mountain Road
Tucson, AZ 85718-1331

In re Application of:
Garrett N. Ford
Application No. 10/755,984
Filed: January 13, 2004
Attorney Docket No.: 122142.00009
For: HORSE BOOT WITH DUAL TONGUE ENTRY SYSTEM

DECISION ON PETITION UNDER 37 CFR 1.181

This is in response to applicants' petition under 37 CFR 1.181 filed May 5, 2006 requesting withdrawal of the finality of the Office action mailed January 10, 2006 as being premature.

The Petition is **DENIED.**

Applicant had requested reconsideration of the final rejection mailed on January 10, 2006 pursuant to MPEP 706.07(c) to the Primary Examiner in the letter filed on March 10, 2006. In that letter the applicant had cited MPEP 706.07(a) and 904 indicating that "a second action on the merits in any application "will not be made final" if it includes a rejection on newly cited art of any claim not amended by the applicant" and further states that "A second or any subsequent action on the merits in any application should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed". The applicant further argues that instant claim 18 (which is the only claim that is subject of this petition) was "amended to clarify language and to distinguish prior art on the basis of minor changes that clearly pertained to the invention as described throughout the specification and that such changes should have been reasonably expected to claim". The applicant further notes that the "claim was not amended to distinguish the Dallmer reference as evidenced by the fact that the Remarks in reply to the first office action do not in any way refer to the changed language ("hoof") as a distinguishing feature".

The Primary Examiner had addressed this request for reconsideration in the Advisory Action mailed on March 20, 2006. However, a further review of the Examiner's remarks in the Advisory Action would appear to indicate that the Examiner had only partially addressed the remarks directed to instant claim 1 and did not appear to fully address the limitations found in

instant claim 18 as noted in the request for reconsideration letter filed on March 10, 2006 (and for which this instant claim 18 is the subject of the present petition).

MPEP section 904.03 Conducting the Search recites in part:

It is a prerequisite to a speedy and just determination of the issues involved in the examination of an application that a careful and comprehensive search, commensurate with the limitations appearing in the most detailed claims in the case, be made in preparing the first action on the merits so that the second action on the merits can be made final or the application allowed with no further searching other than to update the original search. It is normally not enough that references be selected to meet only the terms of the claims alone, especially if only broad claims are presented; but the search should, insofar as possible, also cover all subject matter which the examiner reasonably anticipates might be incorporated into applicant's amendment. Applicants can facilitate a complete search by including, at the time of filing, claims varying from the broadest to which they believe they are entitled to the most detailed that they would be willing to accept.

A review of the originally filed claims of January 13, 2004 indicates that none of the 19 claims as originally presented provided a claim that covered the subject of the article of footwear being directed towards a "hoofed" animal. Therefore there has not been any evidence that the applicant facilitated a complete search as noted in MPEP 904.03 above. Since the applicant has failed to provide any evidence of claims directed towards a "hoofed" animal as originally filed, it is maintained that the inclusion of such limitations in the amendment filed March 29, 2005 clearly changes the scope of the claims and was necessarily provided to overcome the rejection made under 35 USC 102(b) to Kos US Patent No. 2,986,823 in the office actions dated February 24, 2005 and June 10, 2005 which was not directed to a hoofed animal but to an overshoe for a women's shoe.

It is noted that an appeal brief has been filed on June 19, 2006. Therefore this application is being forwarded to the Primary Examiner for consideration of this appeal brief.

Any questions regarding this decision should be directed to SPE Peter Poon at (571) 272-6891.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

pmp/snm: 7/20/06

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ANTONIO R. DURANDO
6902 N. TABLE MOUNTAIN ROAD
TUCSON AZ 85718-1331

In re Application of :
Garrett N. FORD :
Application No. 10/755,984 : ON PETITION
Filed: January 13, 2004 :
Attorney Docket No.: 122142.00009 :

This is a decision on the petition filed August 23, 2006, and resubmitted August 29, 2006, under 37 CFR 1.181(a)(3) requesting that the Director exercise his supervisory authority and overturn the decision of the Director, Technology Center 3600 (Technology Center Director), dated July 21, 2006, which refused to either withdraw the finality of the Office action mailed January 10, 2006, or compel the entry of the amendment after final filed March 10, 2006.

The petition to overturn the decision of the Technology Center Director dated July 21, 2006, is **DISMISSED AS MOOT**.

BACKGROUND

On February 24, 2005 a non-final Office action was mailed.

On March 25, 2005 a response was filed.

On June 10, 2005 a final Office action was mailed.

On September 6, 2005 a Notice of Appeal was filed.

On October 28, 2005 an Appeal Brief was filed.

On January 10, 2006 a final Office action was mailed.

On March 10, 2006 an amendment after final rejection was filed.

On March 20, 2006 an Advisory Action was mailed.

On May 2, 2006 a petition to withdraw the finality of the final Office action was filed.

On May 5, 2006 a Notice of Appeal was filed.

On June 19, 2006 an Appeal Brief was filed.

On July 21, 2006 a decision dismissing the petition was mailed.

On August 23, 2006 the instant petition was filed.

On September 6, 2006 an Examiner's Answer was mailed and in view of the introduction of a new ground of rejection gave petitioner the option of reopening prosecution or maintaining the appeal.

On October 26, 2006 petitioner requested that prosecution be reopened pursuant to 37 CFR 41.39(b)(1).

DECISION

The prosecution of the instant application indicates that petitioner has requested, under 37 CFR 41.39(b)(1), that prosecution on the merits be reopened. Accordingly, petitioner's request to withdraw the finality of the January 10, 2006 Office action is moot.

This application file is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

Charles Pearson
Director, Office of Petitions

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Edmund P. Pfleger
Grossman Tucker Perreault & Pfleger, PLLC
55 South Commercial Street
Manchester NH 03101

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OFFICE OF PETITIONS

In re Application of :
Yung-Lin Lin :
Application No. 10/756,007 : DECISION ON PETITION
Filed: January 13, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 02MICRO :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 18, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). The amendment is not acceptable, because it reads as if the above-identified application (10/756,007) filed January 13, 2004 is claiming priority to application no. 10/802,901 filed March 16, 2004. Application no. 10/756,007 cannot be a continuation-in-part of application no. 10/802,901 because it was filed before the purported parent application no. 10/802,901.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

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

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

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

Any questions concerning this matter may be directed to Charlema Grant at (571) 272-3215.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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OFFICE OF PETITIONS

In re Application of :
Young-Lin Lin :
Application No. 10/756,007 : DECISION ON PETITION
Filed: January 13, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 02MICRO :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 13, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

Although petitioner included a reference to application numbers 10/299,206 and 09/757,265 in the specification on filing, the references were not recognized because applicant failed to indicate the relationship between the nonprovisional applications. Thus, a petition under 37 CFR 1.78 (a)(3) was required.[1]

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

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

This application is being forwarded to Technology Center Art Unit 2838 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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

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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
10/756,007	01/13/2004	2838	1358	O2MICRO 03.02CIP	13	24	4

CONFIRMATION NO. 1499

32047
GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

CORRECTED FILING RECEIPT

OC000000022328951

OC000000022328951

Date Mailed: 02/05/2007

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

Applicant(s)

Yung-Lin Lin, Palo Alto, CA;

Power of Attorney:

Steven Grossman–35001
Donald Perreault–40126
Edmund Pfleger–41252
Jeffrey Placker–47862
Scott Faber–48380
Richard Rhodes Jr–53513

Domestic Priority data as claimed by applicant

This application is a CIP of 10/348,748 01/22/2003 PAT 6,778,415

Foreign Applications

If Required, Foreign Filing License Granted: 03/23/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/756,007

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

CONTROLLER AND DRIVING METHOD FOR SUPPLYING ENERGY TO DISPLAY DEVICE CIRCUITRY

Preliminary Class

363

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

Michael A. Forhan
Thompson Hine LLP
10 W. Broad Street
Suite 700
Columbus, OH 43215-3435

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MAY 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Ralph F. Kalies :
Application No. 10/756,010 : ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. 0368806.00440 :

This is in response to the "Petition Under 37 CFR 1.47(b), filed January 13, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor.

(5) proof of proprietary interest: and

(6) proof of irreparable damage.

Applicant lacks item (2), and (6) set forth above.

With regard to item (2) noted above, petitioner has not provided an oath or declaration in compliance with 37 CFR 1.64. The oath or declaration submitted January 13, 2004 does not contain an appropriate signature as required by 37 CFR 1.63 and MPEP 409.03(b). MPEP 409.03(b)(A) states:

> "The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either poof of the attorney or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b)."

In view of the above, petitioner must submit a properly executed oath or declaration.

With regard to item (6) noted above, petitioner has not provided proof of irreparable damage. Irreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage. Rule 47 status cannot be accorded until such a showing is established.

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
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
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Michael A. Forhan
Thompson Hine LLP
10 W. Broad Street
Suite 700
Columbus, OH 43215-3435

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AUG 23 2004

OFFICE OF PETITIONS

In re Application of :
Ralph F. Kalies :
Application No. 10/756,010 : ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. 0368806.00440 :

This is in response to the "Petition Under 37 CFR 1.47(b)," filed August 5, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor, Ralph F. Kalies has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Michael Forhan establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that Omnicare, Inc. has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the inventor had an obligation to assign any patent rights to Omnicare, Inc. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that 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 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status

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

After this decision is mailed, the above-identified application will be referred to the Office of Initial Patent Examination for issuance of a corrected filing receipt.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 306-3475.

Marianne Jenkins
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

Ralph F. Kalies
5772 Kumbier Road
Pickett, WI 54964

COPY MAILED

AUG 2 3 2004

OFFICE OF PETITIONS

In re Application of
Ralph F. Kalies
Application No. 10/756,010
Filed: January 13, 2004
For: METHOD FOR GENERATING MEDICAL INTELLIGENCE FROM PATIENT-SPECIFIC DATA

Dear Dr. Kalies:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining 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 Marianne Jenkins at (703) 306-3475. 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, DC area).

Marianne Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Michael A. Forhan
Thompson Hine LLP
10 W. Broad Street, Suite 700
Columbus, OH 43215-3435

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael A. Forhan
Thompson Hine LLP
10 W. Broad Street
Suite 700
Columbus, OH 43215-3435

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Ralph F. Kalies :
Application No. 10/756,010 : ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. 0368806.00440 :

CORRECTED DECISION

Papers filed on August 5, 2004 in response to a "Decision Refusing Status Under 37 CFR 1.47(b)" mailed May 20, 2004 included a Declaration signed by a previously non-signing inventor, Ralph Kalies, in compliance with 37 CFR 1.63.

The petition is dismissed as moot.

The previous decision of August 23, 2004, which mistakenly accorded the application Rule 47 status, was mailed in error and is hereby vacated. In view of the joinder of the inventor, further consideration under § 1.47(b) is not necessary. This application does not have any Rule 1.47 status and no such status should appear in the file wrapper. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(b).

The application file is being referred to the Office of Initial Patent Examination to complete processing of the application.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 306-3475[1].

Marianne Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Effective September 27, 2004, the phone number will be changed to (571) 272-3223, as this is the date the Office of Petitions anticipates moving to the new USPTO facility in Alexandria, VA.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 14 2006

TECHNOLOGY CENTER 3600

Gordon & Jacobson, P.C.
65 Woods End Road
Stamford, CT 06905

In re Application of :
J. William Box et al. :
Application No. 10/756,024 :
Filed: January 12, 2004 :
For: SMALL-SIZE HIGH-SPEED TRANSMISSION SYSTEM FOR USE IN A MICROTURBINE-POWERED AIRCRAFT :

RESPONSE TO PETITION TO EXPUNGE FILED UNDER 37 CFR 1.59(b)

This is a response to the petition under 37 CFR 1.59(b), filed January 13, 2006, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that Figure 1 contained in the document "High Reduction Ratio Drive System for Small Unmanned Aerial Vehicle (UAV)", filed January 9, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

In the meantime, the document will be closed whereby any non-Patent and Trademark Office personnel will be precluded from viewing or having access to the document, such as via public PAIRs.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

DH/tl: 2/2/06

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Commissioner for Patents
United States Patent and Trademark Office
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JUN 27 2007

TECHNOLOGY CENTER 3600

Gordon & Jacobson, P.C.
60 Long Ridge Road
Suite 407
Stamford, CT 06902

In re Application of :
J. William Box et al. :
Application No. 10/756,024 :
Filed: January 12, 2004 :
For: SMALL-SIZE HIGH-SPEED TRANSMISSION SYSTEM FOR USE IN A MICROTURBINE-POWERED AIRCRAFT :

RESPONSE TO PETITION TO EXPUNGE FILED UNDER 37 CFR 1.59(b)

This is a response to the petition under 37 CFR 1.59(b), filed January 13, 2006, to expunge information from the above identified application. The decision on the petition was held in abeyance in a letter mailed February 14, 2006 until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment. The application is now in condition for allowance.

The petition is **DENIED**.

Petitioner requests that Figure 1 contained in the document "High Reduction Ratio Drive System for Small Unmanned Aerial Vehicle (UAV)", filed January 9, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

A review of the record indicates that the examiner used the material in a rejection under 35 U.S.C 102(b). As the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims, the information will not be removed from the official file.

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

Any questions regarding this letter should be directed to Teri P. Luu at (571) 272-7045.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

1640

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/23/2010

Applicant	: Douglas J. Holmi	: DECISION ON REQUEST FOR
Patent Number	: 7653203	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/756,028	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1648** 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
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DW 04-04

THOMPSON HINE L.L.P.
2000 COURTHOUSE PLAZA , N.E.
10 WEST SECOND STREET
DAYTON OH 45402

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APR 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Ralph F. Kalies	:	
Application No. 10/756,043	:	DECISION REFUSING STATUS
Filed: 13 January, 2004	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 036806.00441	:	

This is in response to the petition filed on 13 January, 2004, under 37 CFR 1.47(b).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 13 January, 2004, without an executed oath or declaration. The present petition was also filed therewith. Petitioners assert that the non-signing inventor, Ralph F. Kalies, refused to sign the declaration at a meeting on 10 January, 2004.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and
(6) proof of irreparable damage.

The petition lacks items (1), (2), and (6).

As to item (1), petitioner must supply proof that a copy of the application (specification including claims, drawings, if any, and the declaration) was sent or given to the non-signing inventor for review.[1] Petitioner should submit a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be alleged, petitioner must show that the application papers were sent or given to the non-signing inventor. If the inventor refuses to sign the declaration in writing after being sent or given the application, a copy of that written refusal should be supplied with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The officer must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[2]

In regards to item (6), petitioners must establish irreparable damages in accordance with MPEP 409.03(g).

---

[1] MPEP 409.03(d).

[2] MPEP 409.03(b).

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
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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THOMPSON HINE L.L.P.
2000 COURTHOUSE PLAZA , N.E.
10 WEST SECOND STREET
DAYTON OH 45402

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of	:
Ralph F. Kalies	: DECISION NOTING JOINDER OF
Application No. 10/756,043	: INVENTOR AND PETITION
Filed: 13 January, 2004	: UNDER 37 CFR 1.47(b) MOOT
Attorney Docket No. 036806.00441	:

Papers filed on 4 August, 2004 (certificate of mailing 29 July, 2004), in response to the decision dismissing petition mailed on 30 April, 2004, included a Declaration signed by the previously non-signing inventor, Ralph F. Kalies, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is moot; this application does not have any rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(b).

It is noted that petitioners filed a petition fee of $130.00 with the present request for reconsideration. No additional petition fee is required with the request for reconsideration, however. As such, the petition fee paid with the present petition will be credited to counsel's deposit account, No. 20-0809.

This application will be forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 8/13/04

2 Serial/Patent # 10756043

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
1460	Petition		8/4/04	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 130

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [X] Credit Deposit A/C #: 9 20--0809

10 REASON:

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

NO FEE DUE FOR RECON

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: D WOOD TITLE: SR ATTY

SIGNATURE: DW PHONE: 3086918

OFFICE: OP

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Olivia Kelly DATE: 8/16/04

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

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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FROM DIRECTORS OFFICE
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TECHNOLOGY CENTER 3600

IPW

OIPE
MAR 2 1 2005
PATENT & TRADEMARK OFFICE

Before the United States Patent and Trademark Office

Application No. 10/756,046

Inventor: Guillermo Alfonso Salazar Velasquez

APPROVED
4/4/06

Request for Permission to Withdraw as Attorney of Record

1. Now comes Robert Alan Soltis, attorney for applicant, and pursuant to Rule 1.36, respectfully requests leave to withdraw because he has accepted employment with the United States Government;

2. I have given due notice to the applicant that I am withdrawing from employment and will be filing the necessary papers with the US Patent and Trademark Office, and I have given applicant notice of withdrawal at least two months before the expiration of any response period;

3. I have delivered to the applicant all papers and property in my file concerning prosecution of the application or registration;

4. I have notified the applicant or registrant of any responses that may be due (none) and of the deadline for response (none).

Respectfully submitted,

Robert Alan Soltis
5580 La Jolla Blvd #609
La Jolla CA 92037-7651

Copy to: Guillermo Alfonso Salazar Velasquez
674 West Millard Canyon Road
Altadena CA 91001

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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MICHAEL I KROLL
115 EILEEN WAY
SUITE 105
SYOSSET NY 11791

MAILED

JUL 01 2010

OFFICE OF PETITIONS

In re Application of :
Guillermo Alfonso Velasquez :
Application No. 10/756,046 : DECISION ON PETITION
Filed: January 12, 2004 :
Attorney Docket No. Salazar 1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the non-final Office action mailed April 14, 2006, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on October 15, 2006. A Notice of Abandonment was mailed February 22, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $770.00, and (3) an adequate statement of unintentional delay.

Although the petition is signed by the attorney of record it does not set forth a USPTO registration number. Petitioner should note that all documents submitted before the United States Patent and Trademark Office by a registered patent attorney must contain his/her registration number. However, the accompanying document does include the signature and registration number for Michael I. Kroll, the attorney of record. Therefore, the petition is accepted as being properly signed.

Further, 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement

contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Additionally, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 3636 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

25 FEB 2009

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Christensen, O'Connor, Johnson, Kindness, PLLC
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101-2347

In re Patent no.: 6,909,101	:
Issue Date: June 21, 2005	:
Application No. 10/756,050	: DECISION ON PETITION
Filed: January 12, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NAII122162	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 24, 2008, seeking to correct a claim for priority by way of a Certificate of Correction to prior-filed International Patent Application PCT/JP02/06837, filed July 05, 2002.

The petition is **GRANTED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed international application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii).

The instant application was filed January 12, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed international application after issuance of the application into a patent. As provided in MPEP § 1481.03, where 35 U.S.C. 120 and 365(c) priority based on an international application is to be asserted or corrected in a patent via a Certificate of Correction, 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);
>
> (C) the patentee must submit together with the request for the certificate, copies of documentation showing designation of states and any other information needed to make it clear from the record that the 35 U.S.C. 120 priority is appropriate (see MPEP 201.13(b) as to the requirements for 35 U.S.C. 120 priority based on an international application; and

(D) 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 instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed international application satisfies conditions (A) - (D), the petition is granted. It is noted that the Certificate of Correction mailed 22 July 2008 is in accordance with this decision.

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

Any inquiries concerning this decision may be directed to Anthony Smith at (571) 272-3298.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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OCT 29 2004

OFFICE OF PETITIONS

In re Application of :
Michael Jacob, et al. :
Application No. 10/756,093 : ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. SMB-PT089(P 03 570 B US) :

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

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

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

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

Retta Williams

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

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of :
Randall W. Nelson et al. :
Application No. 10/756,100 : DECISION ON PETITION
Filed: January 12, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 41821.1400 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 11, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed

nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed July 11, 2001 fails to state the relationship of Application Nos. 09/808,314, filed March 14, 2001 and 09/808,275, filed March 14, 2001, to this application.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment or an Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which state the relationship of the prior-filed applications to this application are required.

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

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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MAY 24 2006

OFFICE OF PETITIONS

In re Application of :
Randall W. Nelson et al. :
Application No. 10/756,100 : DECISION ON PETITION
Filed: January 12, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket Number: 41821.1400 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 30, 2006, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed March 30, 2006.

The petition is **DISMISSED**.

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

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

While the above requirements have been satisfied, the amendment filed March 30, 2006 has been considered by the Examiner of record. For the reasons noted in the attached Advisory Action, the Examiner has indicated that the amendment does not place the application in condition for allowance.

In view thereof, the only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission under 37 CFR 1.114, or a continuing application.

It should also be noted that the application may have become abandoned by operation of law. In order to continue with prosecution of this application, a petition to revive under 37 CFR 1.137 will have to be filed.

Finally, it appears that the claim for priority to the provisional application has been deleted. If this was done intentionally, petitioner will not be able to later reassert this claim.

Since this is a renewed petition and since the petition fee had been previously paid with the petition filed July 11, 2005 and dismissed in a decision mailed September 19, 2005, the petition fee paid with the instant petition is not necessary. A credit in the amount of $1370.00 has been posted to deposit account no. 19-2814.

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Courtesy Copy of Advisory Action

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of
Randall W. Nelson et al.
Application No. 10/756,100
Filed: January 12, 2004
Attorney Docket Number: 41821.1400

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition to revive under 37 CFR 1.137(b)[1] and on the second renewed petition under 37 CFR 1.78(a)(3)[2], filed January 2, 2007, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed January 2, 2007.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

A petition filed under 37 CFR 1.78 on July 11, 2005 was dismissed in a decision mailed September 19, 2005 because the concurrently filed amendment failed to properly state the relationship between the later filed application to the prior filed applications for which priority was claimed.

Comes now applicant with a renewed petition and amendment.

---

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

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

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

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

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

[2]It is noted that the claim for priority to the provisional application, 60/439,110, was present on filing of the application. Moreover, the claim is proper because the application was filed within twelve (12) months as January 12, 2004 was a Monday.

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.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed co-pending 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) as it claims that provisional application no. 60/439,110 is a continuation-in-part application therefore it is unacceptable. The relationship should be between the instant application and application no. 09/808,314.

In view of the above and since the amendment submitted with the RCE as the submission required under 37 CFR 1.114 is not acceptable, the requirements under 37 CFR 1.137(b) also have not been met.

This application became abandoned for failure to timely reply to the final Office Action mailed September 30, 2005. A response was filed March 30, 2006 but by Advisory Action of September 21, 2006, the applicant was advised that the response did not place the

application in condition for allowance. This application therefore became abandoned on March 31, 2006. Accordingly, a Notice of Abandonment was mailed November 2, 2006. In response to the Final Office Action mailed September 30, 2005, a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114 has been filed.

All requirements have been met under 37 CFR 1.137(b), howevergiven the dismissal on the petition under 37 CFR 1.78(a)(3), a decision on petition under 37 CFR 1.137(b) is **being held in abeyance**.

Before the petitions under 37 CFR 1.137(b) and 37 CFR 1.78(a)(3) can be granted, a renewed petition and either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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

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Alexandria, VA 22313-1450

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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NOV 27 2007

OFFICE OF PETITIONS

In re Application of
Randall W. Nelson et al.
Application No. 10/756,100
Filed: January 12, 2004
Attorney Docket Number: 41821.1400

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 21, 2007, to accept an unintentionally delayed claim 35 U.S.C. §120 for the benefit of the prior-filed non-provisional applications set forth amendment filed August 31, 2006.

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.

A petition filed January 2, 2007 was dismissed in a decision mailed June 21, 2007 because the concurrently filed amendment failed to properly state the relationship between the earlier filed applications.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed co-pending 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.

Comes now petitioner with the instant renewed petition and Substitute Amendment properly stating the relationship between the instant application and non-provisional applications 09/808,314, 09/024,988, 08/449,903 as required by 35 U.S.C. § 120.

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

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

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

All requirements of 37 CFR 1.137(b) were previously met, except given the dismissal of the petition under 37 CFR 1.78(a)(3), a decision was held in abeyance. In view of the above, and in view of the RCE filed January 2, 2007, the petition to revive under 37 CFR 1.137(b), previously held in abeyance until a proper amendment was filed, is **GRANTED**.

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

This matter is being referred to Technology Center Art Unit 1641 for appropriate action on the amendment filed August 21, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/756,100	01/12/2004	1641	450	41821.1400	3	1

CONFIRMATION NO. 2959

CORRECTED FILING RECEIPT

20322
SNELL & WILMER L.L.P. (Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX, AZ 85004-2202

Date Mailed: 10/24/2007

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

Applicant(s)

Randall W. Nelson, Phoenix, AZ;
Dobrin Nedelkov, Tempe, AZ;
Urban A. Kiernan, Gilbert, AZ;
Kemmons A. Tubbs, Mesa, AZ;

Power of Attorney: The patent practitioners associated with Customer Number 020322

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/439,110 01/10/2003
and is a CIP of 09/808,314 03/14/2001
which is a CON of 09/024,988 02/17/1998 ABN
which is a CON of 08/449,903 05/23/1995 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 04/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/756,100**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
** SMALL ENTITY **

Title

Analysis of insulin-like growth factors from biological fluids by the use of affinity-based mass spectrometric methods

Preliminary Class

436

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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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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VIERRA MAGEN MARCUS & DENIRO LLP
575 MARKET STREET SUITE 2500
SAN FRANCISCO CA 94105

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APR 10 2007

OFFICE OF PETITIONS

In re Application of
Brian S. Marcus et al.
Application No. 10/756,102
Filed: January 12, 2004
Title of Invention: ELECTRONIC EDUCATIONAL TOY HAVING A HOUSING WITH AN UPPER FACE INCLUDING A DISPLAY SCREEN AND BUTTON AND ENCLOSING A PROCESSOR AND SPEAKER

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed January 30, 2007, under 37 CFR 1.181 or in the alternative under 37 CFR 1.137(a).

The petition under 37 CFR 1.181 is **GRANTED**.
The petition under 37 CFR 1.137(a) is **DISMISSED** as involving moot issues.

The application became abandoned December 29, 2006 for failure to timely pay the issue fee. A Notice of Allowance was mailed September 29, 2006 thus closing prosecution in the application. Payment of the issue fee was due not later than December 29, 2006.

Petitioners assert that on December 29, 2006, prior to payment of the issue fee, and therefore in lieu thereof, they filed a Request for Continued Examination (RCE) under 37 CFR 1.114 however, the papers were placed in application file no. 11/618,662 and thus not timely applied in lieu of the payment of the issue fee. Accordingly, a Notice of Abandonment was mailed January 29, 2007.

Submitted as proof is a copy of the RCE and amendment purportedly filed December 29, 2006.

A search of the application file and the USPTO records reveals the RCE and amendment properly filed but inadvertently added to the files of application no. 11/618,662, as well as a an Electronic Acknowledgment Receipt as proof of filing of the

RCE, timely filed December 29, 2006.
In view thereof, the RCE was timely filed, prior to abandonment of the application and as such, the Notice of Abandonment was sent in error. Accordingly, the holding of abandonment is hereby withdrawn. No petition fee is necessary and none has been charged.

Additionally, in view of the holding of abandonment being withdrawn, there is no need to treat the petition under 37 CFR 1.137(a).

This matter will be referred to Technology Center 3715 for processing of the RCE and amendment filed December 29, 2006.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: Viktors Berstis	: DECISION ON REQUEST FOR
Patent Number	: 7603253	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/756,150	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1462** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DALE F. REGELMAN
LAW OFFICE OF DALE F. REGELMAN, P.C.
4231 SOUTH FREMONT AVENUE
TUCSON AZ 85714

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DEC 19 2006

OFFICE OF PETITIONS

In re Application of :
Lee et al. :
Application No. 10/756,154 : ON PETITION
Filed: January 13 2004 :
Title: Three Dimensional Album Page Protector :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed November 20, 2006.

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

This application became abandoned for failure to timely submit the issue and publication fee(s) , as required by the Notice of Allowance and Fee (s) Due which was mailed August 16, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on November 17, 2006. This decision precedes the mailing of a Notice of Abandonment.

Petitioner contends the Notice of Allowance and Fee (s) Due mailed on August 16, 2006 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 3611 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 15 2008

In re Application of :

ZANELLI, Claudio I. et al. :
Application No. 10/756,173 : DECISION ON PETITION
Filed: January 12, 2004 : TO WITHDRAW
Attorney Docket No. **022105-000100US** : 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 03, 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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

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 Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SHIRLEY L. CHURCH, ESQ.**
6540 LUSK BLVD.
SUITE C-274
SAN DIEGO, CA 92121

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CRUTSINGER & BOOTH
1601 ELM STREET
SUITE 1950
DALLAS, TX 75201-4744

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MAY 29 2007

OFFICE OF PETITIONS

In re Application of :
Charles W. CHAMP, et al :
Application No. 10/756,177 : DECISION ON PETITION
Filed: January 13, 2004 : TO WITHDRAW
Attorney Docket No. 18002PCTUSCIP : 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 26, 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 Todd E. Albanesi on behalf of all attorneys of record who are associated with customer No. 01224.

All attorneys/agents of record have been withdrawn.

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

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

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

There is an outstanding Office action mailed November 20, 2006 that require a reply by the applicant.

April Wise
Petitions Examiner
Office of Petitions

cc: CHARLES W. CHAMP
AND JUNE KINZER
NO. 29 PERSIMMON LANE
ASHEVILLE, NC 28805

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/756,177	01/13/2004	Charles W. Champ	18002PCTUSCIP

CONFIRMATION NO. 2091

OC000000023964255

1224
CRUTSINGER & BOOTH
1601 ELM STREET
SUITE 1950
DALLAS, TX 752014744

Date Mailed: 05/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/26/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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BROWN RAYSMAN MILLSTEIN FELDER & STEINER, LLP
900 THIRD AVENUE
NEW YORK, NY 10022

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SEP 15 2006
OFFICE OF PETITIONS

In re Patent No. 6,976,925 :
Issue Date: December 20, 2005 :
Application No. 10/756,185 : ON PETITION
Filed: January 13, 2004 :
Patentee(s): Timothy M. Owens, et. al. :

This is a decision on the petition under 37 CFR 3.81, filed on June 29, 2006, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

Since $100 is needed for the Certificate of Correction, as authorized, that fee has been charged to petitioner's deposit account.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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SEP 0 4 2009

OFFICE OF PETITIONS

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

In re Patent No. 7,529,583 :
Brockway, et al. : LETTER REGARDING
Issue Date: May 5, 2009 : PATENT TERM ADJUSTMENT
Application No. 10/756,188 : AND NOTICE OF INTENT
Filed: January 12, 2004 : TO ISSUE CERTIFICATE
Attorney Docket No. 22570-032001 : OF CORRECTION

This is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed March 26, 2009. Pursuant to patentees' duty of good faith and candor to the Office, patentees request that the determination of patent term adjustment under 35 U.S.C 154(b) be reviewed for accuracy.

The request for review of determination of the patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred seventeen days (217) days.

Patentees are given **THIRTY (30) DAYS or ONE MONTH, whichever is longer**, from the mail date of this decision to respond to this decision. No extensions of time will be granted under 37 CFR 1.136.

On January 2, 2009, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed indicating that the patent term adjustment to date was 266 days (514 days of Office delay - 248 days of applicant delay). On March 26, 2009, patentees submitted the instant comment. Patentees discloses that they believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed January 2, 2009, is longer than appropriate. Specifically, patentees state that:

> ...Applicants direct the Office's attention to the presence of a Notice of Incomplete Reply mailed subsequent to the

Response to Notice to File Missing Parts filed in June 2004.

Excerpt from Letter Regarding Patent Term Adjustment filed March 26, 2009, page 1

On May 5, 2009, the above-identified application matured into US Patent No. 7,529,583 with a revised patent term adjustment of 266 days.

Further review of the application history reveals that on June 1, 2004, a Notice to File Missing Parts of Non-Provisional Application was mailed requiring payment of the basic filing fee, a surcharge, a properly executed declaration under 37 CFR 1.63, and replacement drawings. Applicants filed a response thereto on June 18, 2004. On July 9, 2004, a Notice of Incomplete Reply was mailed indicating that the response of June 18, 2004, was incomplete in that it did not include replacement drawings. On August 6, 2004, applicants filed replacement drawings to correct the omission in the reply filed on June 18, 2004.

37 CFR 1.704(c)(7) provides that:

> (c) 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:
>
> (7) Submission of a reply having an omission (§1.35(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed an ending on the date the reply or other paper correcting the omission was filed.

It is undisputed that the response filed June 18, 2004, contained an omission and that replacement drawings correcting the omission were not filed until August 6, 2004. Accordingly, pursuant to 37 CFR 1.704(c)(7), a period of reduction of forty-nine (49) days will be entered, encompassing the period beginning on the day after the date the reply having an omission was filed, June 19, 2004, and ending on the date the reply correcting the omission was filed, August 6, 2004.

In view thereof, the patent should have issued with a revised Patent Term Adjustment of two hundred seventeen (217) days, (514 days of Office delay - 297 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in the calculation of the Patent Term Adjustment, the Office will not assess the $200.00 application fee under 37 1.18(e). The Office thanks patentee for his good faith and candor in bringing this to the attention of the Office.

This matter 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 two hundred seventeen (217) days.

Telephone inquiries regarding this specific matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,529,583 B1

DATED : May 5, 2009

INVENTOR(S) : Brockway, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (266) days

Delete the phrase "by 266 days" and insert – by 217 days--

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MCCARTER & ENGLISH LLP
CITYPLACE I
185 ASYLUM STREET
HARTFORD, CT 06103

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APR 29 2008

OFFICE OF PETITIONS

In re Application of :
Sanjuv N. Patel, et al. :
Application No. 10/756,196 : DECISION ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. 101226.00021 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 16, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on November 6, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain

that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

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

This application is being referred to Technology Center AU 3744 for appropriate action by the Examiner in the normal course of business on the reply received November 6, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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MAY 21 2004

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

In re Application of	:
Herb Boynton	:
Serial No.: 10/756,205	: PETITION TO MAKE SPECIAL
Filed: January 13, 2004	:
Attorney Docket No.: NCAL.001A	:

This is in response to applicants' petition filed April 1, 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

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STEPHEN DURANT
MORRISON AND FOERSTER
425 MARKET STREET
SAN FRANCISCO, CA 94105

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OFFICE OF PETITIONS

In re Application of	:	
James Schleicher et al	:	
Application No. 10/756,206	:	DECISION ON PETITION
Filed: January 12, 2004	:	TO WITHDRAW
Attorney Docket No. 306812005900	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 9, 2005.

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

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

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

This application is being referred to Technology Center AU 2819.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: BEYER WEAVER & THOMAS
ATTN: ALTERA
P.O. BOX 70250
OAKLAND, CA 94612-0250

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Date Mailed: June 3, 2008
Patent No. :7,330,210 B2
Ser. No. :10/756229
Inventor(s) :Monroe A. Lalumandier
Issued :February 12, 2008
Title: METHOD AND APPARATUS FOR REPAIRING A VIDICON CAMERA

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.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Harness, Dickey & Pierce
P.O. Box 828
Bloomfield Hills, MI 48303

MD/mt

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7/14/08

Patent No. :7330210
Ser. No. :10756229
Inventor(s) :Monoroe A. Lalumandier
Issued : 2/12/08
Title : METHOD AND APPARATUS FOR REPAIRING A VIDICON CAMERA

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

MARK D. ELCHUK
HARNESS DICKEY & PIERCE
P.O. BOX 828
BLOOMFIELD HILLS, MICHIGAN 48303

HR

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INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

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SEP 26 2008

OFFICE OF PETITIONS

In re Patent No. 7,330,210	:	
Application No. 10/756,229	:	
Filed: January 13, 2004	:	ON PETITION
Issued: February 12, 2008	:	
Attorney Docket No. 7784-000971	:	

This is a decision on the petition filed August 8, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to add 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**.

Further, since the address given on the petition differs from the address of record a courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

cc: Mark D. Elchuk
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303

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

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CHALKER FLORES, LLP
12700 PARK CENTRAL, STE. 455
DALLAS TX 75251

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JAN 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Gorenstein et al.	:	
Application No. 10/756,247	:	DECISION DISMISSING PETITION
Filed: January 13, 2004	:	
Attorney Docket No. UTMB:1023	:	
Title of Invention: THIO MODIFIED APTAMER SYNTHETIC METHODS AND COMPOSITIONS	:	

This is a decision on the petition filed November 18, 2004 (certificate of mailing date November 15, 2004), requesting in effect, that the Notice of Omitted Items (contained in the Notice to File Corrected Application Papers) in a Nonprovisional Application ("Notice") mailed September 15, 2004, be withdrawn.

The petition is dismissed.

The application was filed on January 13, 2004. However, on September 15, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of January 13, 2004 but pages 25 and 26 of the specification appeared to have been omitted.

In response, the present petition was filed. The petition is accompanied by a copy of pages 25 and 26 of the specification (description and claims).

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1)promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant

asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing pages were actually deposited in the PTO on January 13, 2004, with the other application papers nor request a later filing date.

Instead, applicants seek to add the pages of the specification to the present application on the basis that the pages are not new matter. However, no petition is necessary for that purpose. Additional pages of the specification may be entered by the primary examiner without a petition so long as the pages contain no new matter. See MPEP 608.02(a).

However, Petitioner may submit page 25 and 26 of the specification in the form of an Amendment. Additional pages of the specification may be entered by the primary examiner without a petition so long as the pages contain no new matter. MPEP 201.06 (c) states that:

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

Pages 25 and 26 of the specification will not be new matter if it is part of the disclosure of prior application no. 09/425,804 from which the present application incorporates by reference. As set forth in MPEP 201.06 (c)the incorporation by reference of a

prior application permits an applicant to amend the application without the need for a petition. Accordingly, applicant may file an Amendment requesting the entry of pages 25 and 26 as a new page of specification. If pages 25 and 26 are filed as an amendment, it will be reviewed for new matter.

The $130.00 petition fee will not be refunded because it was not necessitated by Office error.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of January 13, 2004, using the application papers received in the Office on that date.

Any inquiries related to this decision 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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MCDERMOTT WILL &EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

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FEB 2 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Shigenori Hayashi et al	:	
Application No. 10/756,248	:	DECISION GRANTING PETITION
Filed: January 14, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60188-739	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 27, 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 February 13, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **6/5/09**

TO SPE OF : ART UNIT **2812 (2800)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/756,248** Patent No.: **7,488,655**

Attn: Charles Garber

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.

☑ **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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Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005

MAY 25 2007

In re Application of:
Woo *et al.*
Serial No.: 10/756,286
Filed: January 14, 2004
For: Degaussing Circuit for Cathode Ray Tube

NOTICE OF
DECISION ON PETITION
UNDER 37 C.F.R.§ 1.181

The purpose of this communication is to inform you that the petition filed 21 March 2007 in the above-identified application is being DISMISSED.

In the first office action, mailed 08 August 2006, a drawing requirement was made, specifically to label the drawings with a legend such as prior art. In the final rejection mailed on 08 March 2007 a drawing requirement was reiterated. On 21 March 2007, the same date on which the instant petition was filed, corrected drawings were received. The corrected drawings complied with the drawing requirements in the final rejection. The requirement, having been satisfied by the submitted drawing corrections, is no longer outstanding, rendering the petition moot.

Telephone inquires should be directed to Brian Sircus at (571) 272-2058.

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

MAILED

MAY 04 2010

OFFICE OF PETITIONS

In re Application of :
Horst Kessler, et al. :
Application No. 10/756,289 : DECISION ON PETITION
Filed: January 14, 2004 :
Attorney Docket No.: 2923-597 :

This is a decision in response to the petition filed February 22, 2010, 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**.

A Notice of Abandonment was mailed on December 30, 2009. On February 22, 2010, the present petition was filed, wherein petitioner argues that the Notice of Abandonment was mailed error.

For the reasons detailed in the petition, the Office concedes that no abandonment existed and that the Notice of Abandonment issued in error.

However, it is noted that, while the response to the final Office action of November 3, 2008 included a 2-month petition for extension of time on April 2, 2009, the Office erroneously charged $230 instead of the $245 required for the extension. The $15 fee deficiency is being charged to counsel's deposit account as authorized.

The Notice of Abandonment mailed December 30, 2009 is hereby vacated.

The application is being referred to the Technology Center AU 1654 technical support staff for: (1) withdrawing the holding of abandonment, (2) processing of the RCE , and (3) appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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JAN 17 2007

TECHNOLOGY CENTER 3600

Paper No. 12312006

Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, Virginia 20195

In re application of
Jeffery Thomas Jordan
Application No. 10/756,294
Filed: January 14, 2004
For: RUNNER SLED THAT
IS TWISTABLE DURING STEERING

: DECISION ON PETITION
: FOR WITHDRAWAL OF
: RESTRICTION REQUIREMENT
: UNDER 37 CFR 1.144

This letter is in response to the petition received on November 3, 2006 under 37 CFR 1.144 to review the propriety of the Restriction Requirement Mailed July 17, 2006.

The petition is **GRANTED.**

Background

A summary of the examiner's Office actions and the applicant's responses thereto is listed as follows:

1) On July 17, 2006 the examiner sent a Restriction Requirement dividing the application into three groups.

2) On August 11, 2006 the applicant sent an election with traverse accompanied by an amendment in response thereto.

3) On October 5, 2006, the examiner made the restriction final and also sent a non-final rejection.

4) After another amendment from the applicant and a final rejection from the examiner the applicant, on November 3, 2006, sent the petition to withdraw the restriction requirement.

Decision

After a careful review of the application file history it is deemed that the restriction made by the examiner was improper, mainly, for the following reason:

MPEP 803 indicates that all the claims in any case must be examined, even if some of the claims are directed to distinct or independent inventions, if the search and examination can be made without serious burden. In this case the claims have already been extensively examined through a complete prosecution, i.e., prior to the mailing of the restriction, four complete office actions were issued. Given this, coupled with the fact that amendments have already been made to correct minor 35 USC 112, 2nd paragraph issues and capture allowable subject matter, it is decided that no serious burden remains.

Thus:

The petition filed November 3, 2006 under 37 CFR 1.144 to review the propriety of the examiner's restriction requirement of July 17, 2006 and request a withdrawal thereof is **GRANTED.**

The application will be sent back to the examiner for a complete examination of all pending claims 1-6, 8-11, 13-17 and 19-21.

Any questions regarding this decision should be directed to Chris Ellis at (571) 272-6914.

Kathy Matecki

Kathy Matecki, Director
Technology Center 3600
Telephone No.: (571) 272-5350

SM/CPE: 12/31/06

SM

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WASHINGTON, DC 20005

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MAR 31 2006

OFFICE OF PETITIONS

In re Application of :
Katsuhide Tsuritani :
Application No. 10/756,301 : DECISION GRANTING PETITION
Filed: January 14, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. UNION 111 :

This is a decision on the petition, filed March 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 February 3, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3725 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), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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SEP 28 2005

CHARLES A. WENDEL
STEPTOE & JOHNSON, LLP
1330 CONNECTICUT AVENUE, NW
WASHINGTON, DC 20036

In re Application of	:
Mark Roland Boeder	:
Serial No.: 10/756,307	: PETITION DECISION
Filed: January 14, 2004	:
Attorney Docket No.: 28957.0171	:

This is in response to the petition under 37 CFR 1.181, filed September 16, 2005, requesting withdrawal of abandonment based on failure to receive an Office action.

A review of the file history shows that the examiner mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability to applicants on May 17, 2004, setting a three month statutory period for payment of the Issue Fee. Upon failure to receive the Issue Fee the application was held abandoned by Notice of Abandonment mailed July 22, 2005. Applicants state that the Notices were never received and provide statements and docket records providing evidence of non-receipt. In view thereof, the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of a new Notice of Allowance and Issue Fee Due and Notice of Allowability. The correspondence change of address will also be entered.

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.

Jasemine C. Chambers
Director, Technology Center 1600

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Via Meravigli, 16
MILANO 20123 IT ITALY

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OFFICE OF PETITIONS

In re Application of :
Domenico Marchioro :
Application No. 10/756,326 : DECISION ON PETITION
Filed: January 14, 2004 :
Attorney Docket No. 38569/GM/cd :

This is a decision on the communications filed October 4, 2005 and November 7, 2005 which are 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**.

The application became abandoned for failure to file a timely reply to the final Office action mailed February 10, 2005, which set a three (3) month shortened statutory period for reply. No reply having been received and no extensions obtained under 37 CFR 1.136(a), the application became abandoned effective May 11, 2005. A courtesy Notice of Abandonment was mailed on October 11, 2005.

In response, the present petition was filed. Petitioner asserts that the Office action dated February 10, 2005 was apparently lost in the mail. Petitioner request that the holding of abandonment be withdrawn and that the Office action be re-mailed.

A review of the application file indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received 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 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 3643 for (1) withdrawing the holding of abandonment, (2) re-mailing the Office action of February 10, 2005 and (3) restarting the period for reply.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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NELSON A. BLISH
EASTMAN KODAK CO
343 STATE ST
ROCHESTER, NY 14650

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APR 13 2007

OFFICE OF PETITIONS

In re Patent No. 7,063,018 :
Issued: June 20, 2006 :
Application No. 10/756,331 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No. C525 0389 :

This is a decision on the petition under 37 CFR 1.183, filed August 18, 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 Kodak Polychrome Graphics LLC, 3700 Gilmore Way, Burnaby, British Columbia V5G 4M1, Canada 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 assignee's name be corrected on the front page of the 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.

While petitioner seeks to have a Certificate of Correction issued in the name of **Kodak Polychrome Graphics LLC**, USPTO assignment records show **Kodak Graphic Communications Canada Company** as the assignee at the time of issuance. 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 Eastman Kodak Company be deleted on the patent and that Kodak Graphic Communications Canada Company 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 (and fee) which sets forth Kodak Graphic Communications Canada Company, 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

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

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OFFICE OF PETITIONS

In re Application of :
Seiji Inoue :
Application No. 10/756,340 : ON PETITION
Filed: January 14, 2004 :
Atty Docket No. 111287.02 :

This is a decision on the petition, filed November 4, 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 September 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2835 for further processing of the request for continued examination under 37 CFR 1.114 filed November 4, 2004.

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

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

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FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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OFFICE OF PETITIONS

In re Application of :
Masamitsu Itoh :
Application No. 10/756,347 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No. 04329.2754-02 :

This is a decision on the petition filed September 30, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

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

Ex. Thinh Nguyen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/21/06

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/756,342 Patent No.: 7060519

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

☑ **Approved** — **All** changes apply.

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

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

Comments: after reviewing the case the change should be ok - THINH NGUYEN 9/4/06 TTN
(Patent Examiner)

SPE

2823
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

Leonard W. Sherman
Sherman & Shalloway
413 N. Washington Street
Alexandria, VA 22314

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FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Amidaiji, et al. :
Application No.10/756,357 : DECISION GRANTING PETITION
Filed: January 14, 2004 :
Attorney Docket No. **ZU-401/Div 2** :

This is a decision on petition filed November 12, 2004, requesting that the above-identified application retain the presently accorded a filing date of January 14, 2004, with page 83 of the specification as part of the original disclosure.

On January 14, 2004, the above-identified application was filed. On November 5, 2004, the Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers—Filing Date Granted" (the "Notice"), stating that the application had been accorded a filing date of January 14, 2004, however, a replacement abstract was required and page 83 of the specification appeared to have been omitted. As to the omitted item, the notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on November 12, 2004, applicants filed the instant petition along with a copy of the Office date-stamped postcard acknowledging receipt of 119 pages of the specification, including claims and abstract, and a copy of the page 83 of the specification, and a replacement abstract.

Upon review of the record, page 83 of the specification has not been located among the application papers. However, the evidence is convincing that the application papers deposited January 14, 2004, included page 83, which was subsequently misplaced by the Office. Therefore, the application, including page 83 as described in the specification, was complete on filing and entitled to the presently accorded filing date of January 14, 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 14, 2004, using the 119 pages of specification, claims, and abstract filed on January 14, 2004.

The application will be directed to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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HUSCH BLACKWELL SANDERS, LLP
720 OLIVE STREET
SUITE 2400
ST. LOUIS, MO 63101

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APR 23 2009

OFFICE OF PETITIONS

In re Application of
Robert Stieper Milligan
Application No. 10/756,373
Filed: January 14, 2004
Attorney Docket No. 57282.2

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2009, to revive the above-identified application.

This application became abandoned for failure to timely file a reply to the non-final Office action of November 23, 2007. A Notice of Abandonment was mailed on August 6, 2008.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Sean P. Connolly appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Connolly 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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with the $270 fee; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **granted**.

This application is being referred to Technology Center Art Unit 1794 for review of the appeal brief filed on October 22, 2008.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Sean P. Connolly
Husch Blackwell Sanders LLP
1620 Dodge Street, Suite 2100
Omaha, NE 68102-1504

UNITED STATES PATENT AND TRADEMARK OFFICE

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VERIZON
PATENT MANAGEMENT GROUP
1320 NORTH COURT HOUSE ROAD
9TH FLOOR
ARLINGTON, VA 22201-2909

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OFFICE OF PETITIONS

In re Application of	:	
Newman et al.	:	
Application No. 10/756,399	:	DECISION ON PETITION
Filed: January 14, 2004	:	
Attorney Docket No. RIC02010	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 24, 2008, as required by the Notice of Allowance and Fee(s) Due mailed July 24, 2008. Accordingly, the application became abandoned on October 25, 2008. A Notice of Abandonment was mailed November 19, 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 $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

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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Petteri Poyhonen	: DECISION ON REQUEST FOR
Patent Number	: 7644159	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/756,427	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1122** 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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Weaver Austin Villeneuve & Sampson LLP - IGT
Attn: IGT
P.O. Box 70250
Oakland, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Ali Saffari	: DECISION ON REQUEST FOR
Patent Number	: 7614948	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/756,429	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1131** 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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SIEMENS SCHWEIZ AG
I-47, INTELLECTUAL PROPERTY
ALBISRIEDERSTRASSE 245
ZURICH CH-80-47 CH SWITZERLAND

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OFFICE OF PETITIONS

In re Application of :
Hansel, et al. :
Application No. 10/756,474 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No. 1996P08661WOUS :

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 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 December 30, 2005. Accordingly, this application became abandoned on March 31, 2006. A Notice of Abandonment was mailed on May 12, 2006.

Applicants have 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 December 30, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.[1]

The petition is **granted**.

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

[1] 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 practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office. A courtesy copy of this decision is being mailed to practitioner. However, any future correspondence regarding this application will be mailed to the address of record.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: BENOIT CASTEL
745 SOUTH 23RD STREET
ARLINGTON, VA 22202

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Renzo Melotti	: DECISION ON REQUEST FOR
Patent Number	: 7582008	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/756,500	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1391** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of
Hidekazu Yamazaki et al.
Application No. 10/756,506
Filed: January 14, 2004
Attorney Docket No.: Q78180

ON PETITION

This is a decision on the petition filed December 11, 2007 to withdraw the holding of abandonment, which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

Petitioner argues that the Final Office Action mailed May 16, 2007 was not received by the petitioners.

A review of the record indicates no irregularity in the mailing of the Office action. In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record. While petitioners have provided copies of their docket, the evidence presented does not make a showing that the office action was not received at the address to which it is was properly sent by the USPTO. The period covered by the records provided is August 16, 2007 and not for the period in question. To show non-receipt, more convincing evidence would be more closely to the date the Final Office Action was mailed including perhaps up to three months later or the date the response was due.

As non-receipt has not been established, this application became properly abandoned

August 17, 2007 for failure to file a timely reply to the Final Office Action mailed May 16, 2007.

In view thereof, the holding of abandonment will not be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

[2]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)).

until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of :
Hidekazu Yamazaki et al. :
Application No. 10/756,506 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No.: Q78180

This is a decision on the request for reconsideration filed February 8, 2008 to withdraw the holding of abandonment, which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

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

In a petition filed December 11, 2007, petitioner argued that the Final Office Action mailed May 16, 2007 was not received by the petitioners. The petition was dismissed in a decision mailed January 3, 2008 because while petitioners provided copies of their docket, the evidence presented did not make a showing that the office action had not been received at the address to which it is was properly sent by the USPTO.

Comes now petitioner with the instant renewed petition and copies of a docket record, wherein receipt of the Final Office Action mailed May 16, 2007 would have been filed, had it been received. To show that the Office Action mailed May 16, 2007 was not received, petitioner also explains that after searching the docket and file jacket it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the Final Office Action mailed May 16, 2007, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Final Office Action.

In view of the facts set forth in the petition, it is concluded that the Final Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

The instant matter is being referred to Technology Center 1794 for a re-mailing of the Final Office action originally mailed May 16, 2007 and for a re-starting of the response period.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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SEP 25 2006

OFFICE OF PETITIONS

Glen O. Jarrett
224 Manchester Street
Hartford, CT 06112

In re Application of :
Jarrett : DECISION ON PETITION
Application No. 10/756,520 :
Filed: January 14, 2004 :
For: UMBRELLA WATER CONTROL :

This application has been referred to the Office of petitions for consideration of the communication received May 16, 2006. This matter is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned January 14, 2006 for failure to timely submit a proper reply to the Office communication mailed October 13, 2005. The Office communication set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed May 9, 2006.

Petitioner has failed to set forth any argument for the withdrawal of the holding of abandonment. Any renewed petition must establish that a timely reply to the non-final Office was filed before the USPTO in accordance with the provisions of 37 CFR 1.8 or 1.10, or proof of receipt of a timely filed response, typically a return receipt postcard in accordance with MPEP 503, or, if petitioner alleges non-receipt of an Office communication, proof to this effect, such as docketing records. See, MPEP 711.03(c).

ALTERNATE VENUE

Petitioner is urged to consider filing a petition stating that the entire delay was unintentional or avoidable. Petitioner's attention is directed to 37 CFR 1.137(a) and 1.137(b) which provides for the revival of an "unintentionally" or "unavoidably" abandoned application without.

The filing of a petition under 37 CFR 1.137 cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional or unavoidable delay cannot make a statement that the delay was unintentional or unavoidable 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, was unintentional or unavoidable. A statement that the delay was unintentional or unavoidable is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137. *See*, enclosures.

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

Enclosures

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

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

PTO/SB/61 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

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

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

2. Reply and/or fee

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

☐ has been filed previously on _____.

☐ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). 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 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

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

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

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

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

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosure ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unavoidable delay

☐ _____

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

I hereby certify that this correspondence is being:

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

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

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

PTO/SB/61 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature	Date
Typed or printed name	Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DEC 0 4 2006

OFFICE OF PETITIONS

Glen O. Jarrett
224 Manchester Street
Hartford, CT 06112

In re Application of :
Jarrett : DECISION ON PETITION
Application No. 10/756,520 :
Filed: January 14, 2004 :
For: UMBRELLA WATER CONTROL :

This decision is in response to the "renewed petition" under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 10, 2006.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned January 14, 2006 for failure to timely submit a proper reply to the Office communication mailed October 13, 2005. The Office communication set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed May 9, 2006.

As previously indicated, petitioner has failed to set forth any argument for the withdrawal of the holding of abandonment. Any renewed petition must establish that a timely reply to the non-final Office was filed before the USPTO in accordance with the provisions of 37 CFR 1.8 or 1.10, or proof of receipt of a timely filed response, typically a return receipt postcard in accordance with MPEP 503, or, if petitioner alleges non-receipt of an Office communication, proof to this effect, such as docketing records. See, MPEP 711.03(c).

An examination of this petition reveals that applicant is unfamiliar with patent petition procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the

invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent. A listing of registered patent attorneys and agents is available on the USPTO Internet web site http://www.uspto.gov in the Site Index under "Attorney and Agent Roster". Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

ALTERNATE VENUE

Petitioner is urged to consider filing a petition stating that the entire delay was unintentional or avoidable. Petitioner's attention is directed to 37 CFR 1.137(a) and 1.137(b) which provides for the revival of an "unintentionally" or "unavoidably" abandoned application without.

The filing of a petition under 37 CFR 1.137 cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional or unavoidable delay cannot make a statement that the delay was unintentional or unavoidable 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, was unintentional or unavoidable. A statement that the delay was unintentional or unavoidable is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137.

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

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

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MAR 19 2007

OFFICE OF PETITIONS

Glen O. Jarrett
224 Manchester Street
Hartford, CT 06112

In re Application of :
Jarrett : DECISION ON PETITION
Application No. 10/756,520 :
Filed: January 14, 2004 :
For: UMBRELLA WATER CONTROL :

This decision is in response to the "renewed petition" under 37 CFR 1.181 to withdraw the holding of abandonment, filed January 12, 2007.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned January 14, 2006 for failure to timely submit a proper reply to the Office communication mailed October 13, 2005. The Office communication set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed May 9, 2006.

Petitioner argues that a reply to the Office action mailed October 13, 2005 was timely submitted March 14, 2006 and that the reply included a petition for a two month extension of time.

A review of the record reveals that the Office action set a three month extension of time, making a reply due on or before January 13, 2006. Petitioner submitted a reply on March 14, 2006. This reply included a petition for a two month extension of time. A two month extension of time was not sufficient to make the reply timely as a two month extension of time would have extended the period of time for reply to March 13, 2006. The reply to the Office action was received by the Office after March 13, 2006. As the reply was submitted March 14, 2006, the reply was in fact untimely.

ALTERNATE VENUE

Petitioner is urged to consider filing a petition stating that the entire delay was unintentional or avoidable. Petitioner's attention is directed to 37 CFR 1.137(a) and 1.137(b) which provides for the revival of an "unintentionally" or "unavoidably" abandoned application without. See enclosed.

The filing of a petition under 37 CFR 1.137 cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional or unavoidable delay cannot make a statement that the delay was unintentional or unavoidable 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, was unintentional or unavoidable. A statement that the delay was unintentional or unavoidable is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137.

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

Enclosure

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

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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3. Terminal disclaimer with disclaimer fee

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

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

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

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_____ Signature

_____ Date

_____ Typed or printed name

_____ Registration Number, if applicable

_____ Address

_____ Telephone Number

_____ Address

Enclosures:
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

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

I hereby certify that this correspondence is being:

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

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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www.uspto.gov

Glen O. Jarrett
224 Manchester Street
Hartford, CT 06112

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Jarrett : DECISION ON PETITION
Application No. 10/756,520 :
Filed: January 14, 2004 :
For: UMBRELLA WATER CONTROL :

This decision is in response to the "Renewed Petition," filed May 15, 2007. This matter is being treated as a renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

The instant petition fails to comply with the requirements of 37 CFR 1.33(b)(4) in that the instant petition is not signed as required. Accordingly, the instant renewed petition has not been reviewed on the merits. Any renewed petition must comply with the requirements of 37 CFR 1.33(b).

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

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

By 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCCORMICK, PAULDING & HUBER LLP
CITY PLACE II
185 ASYLUM STREET
HARTFORD CT 06103

MAILED

JUN 15 2010

OFFICE OF PETITIONS

In re Application of :
Jarrett : DECISION ON PETITION
Application No. 10/756,520 :
Filed: January 14, 2004 :
For: UMBRELLA WATER CONTROL :

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 and the petition to revive pursuant to 37 CFR 1.137(b), filed November 11, 2009.

This application became abandoned January 14, 2006 for failure to timely submit a proper reply to the Office communication mailed October 13, 2005. The Office communication set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed May 9, 2006. A petition under 37 CFR 1.181 was filed May 16, 2006 and dismissed September 25, 2006. A renewed petition under 37 CFR 1.181 was filed October 10, 2006 and dismissed December 4, 2006. A renewed petition was filed January 12, 2007 and dismissed March 19, 2007. A renewed petition was filed May 15, 2007 and dismissed June 21, 2007.

DECISION UNDER 37 CFR 1.181

Any petition filed pursuant to 37 CFR 1.181 must be 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. See, 37 CFR 1.181(f).

As the instant petition was filed more than two years of the mail date of the decision on petition mailed June 21, 2007, the instant petition filed pursuant to 37 CFR 1.181 is deemed untimely.

In view thereof, the petition under 37 CFR 1.181 is hereby **DISMISSED**.

DECISION UNDER 37 CFR 1.137(b)

Submission of the required petition fee is a prerequisite prior to treatment on the merits of any petition filed pursuant to 37 CFR 1.137(b). As the instant petition under 37 CFR 1.137(b) was not submitted with the required petition fee, the instant petition has not been reviewed on the merits.

In view thereof, the petition under 37 CFR 1.137(b) is hereby **DISMISSED**.

Any request for reconsideration under 37 CFR 1.137(b) must be accompanied by the required petition fee.

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 and/or 1.137(b)." This is not a final agency decision.

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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Alexander J. Burke
Intellectual Property Department 5th Floor
170 Wood Avenue South
Iselin NJ 08830

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Robert Cory Duff :
Application No. 10/756,527 : DECISION REFUSING STATUS
Filed: January 13, 2004 : UNDER 37 CFR 1.47(b)
For: SYSTEM FOR STORING AND :
RETRIEVING DATABASE INFORMATION :

This is in response to the "Petition Under 37 CFR 1.47(b)," filed May 25, 2004.

Petitioner showed that Robert Cory Duff, the non-signing inventor, could not be located after diligent effort. Petitioner demonstrated that Siemens Corporation has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the inventor had an obligation to assign any patent rights to Siemens Corporation. Petitioner submitted the requisite fees. Additionally, petitioner indicated that such action is necessary to prevent irreparable damage. However, petitioner failed to file a declaration in compliance with 37 CFR 1.63 and 1.64.

Accordingly, the petition is dismissed.

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

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last

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known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Petitioner lacks item (2) as set forth above.

As to item (2), petitioner did not submit a declaration with the present petition. The Office notes that:

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

Accordingly, to correct the deficiency, petitioner must submit a declaration setting forth the full name, residence, post office address, and citizenship of Robert Cory Duff. Additionally, the declaration must be signed on behalf of the nonsigning inventor in compliance with 37 CFR 1.63 and 1.64 as indicated above.

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

BEST AVAILABLE COPY

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

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

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

Telephone inquiries related to this decision 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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MAILED
FROM DIRECTORS OFFICE

NOV 17 2004

TECHNOLOGY CENTER 3600

Steven Horowitz
Counselor At Law
Suite 700
295 Madison Avenue
New York, NY 10017

In re Application of:
David Tropp
Serial No. 10/756,531
Filed: January 12, 2004
For: METHOD OF IMPROVING AIRLINE LUGGAGE INSPECTION

DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM, INFRINGEMENT)

This is a decision on the petitions filed March 25, 2004 under 37 CFR 1.102 (d) to make the above-identified application special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section XI: Inventions for Countering Terrorism, or in the alternative M.P.E.P. § 708.02, item II: Infringement.

The requirements for granting special status under M.P.E.P. § 708.02, Section XI: Inventions for Countering Terrorism are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); and (B) a statement explaining how the invention contributes to countering terrorism.

The requirements for granting special status under M.P.E.P. § 708.02, item II: Infringement are: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

Since each above-noted petition requires a petition fee under 37 CFR 1.17(h) of $130.00, applicant is required to submit a total of $260.00 to have both petitions

considered. A review of the file record reveals that applicant has submitted $130.00 in petition fees, with no authorization to charge additional fees. Therefore, applicant is required to either submit and additional $130.00 to have both petitions considered. Or, in the alternative, choose one of the two petitions which he wishes to have considered for his, previously submitted, $130.00 fee.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

For the above stated reasons, the petitions are **DISMISSED.**

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/rwg: 10/26/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 11 2005

Steven Horowitz, Esq.
295 Madison Ave. Suite 700
New York, NY 10017

In re application of	:	**DECISION ON PETITION**
David Tropp	:	**TO MAKE SPECIAL**
Application No. 10/756,531	:	**(COUNTER TERRORISM)**
Filed: January 12, 2004	:	
For: METHOD OF IMPROVING AIRLINE	:	
LUGGAGE INSPECTION	:	

This is in response to the petition filed on February 11, 2005 to make the above-identified application special on the basis of inventions for countering terrorism, as set forth in MPEP § 708.02, XI.

The requirements for granting special status under this section are: (A) a petition to make special; and (B) a statement explaining how the invention contributes to countering terrorism.

Applicant's invention pertains to a method of improving airline luggage inspection. Applicant's petition to make special includes, a statement by applicant's attorney, Mr. Steven Horowitz, explaining how the invention contributes to countering terrorism by providing locks for luggage that baggage screeners can open and relock after inspection, thereby not leaving the luggage unsecured.

Since all of the requirements for special status under MPEP § 708.02 XI have been met, the petition is **GRANTED**.

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

application that it is being taken out of turn because of a possible interference.

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

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/js: 9/08/05

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STEVEN HOROWITZ, ESQ.
295 MADISON AVE
SUITE 700
NEW YORK, NY 10017

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DEC 18 2009

OFFICE OF PETITIONS

In re Application of :
David Tropp :
Application No. 10/756,531 : DECISION ON PETITION
Filed: January 12, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 10, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application 10/706,500 set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

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

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

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement are required.

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

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

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

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

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEVEN HOROWITZ, ESQ.
295 MADISON AVE.
SUITE 700
NEW YORK, NY 10017

COPY MAILED
MAR 10 2010

In re Application of
David Tropp
Application No. 10/756,531
Filed: January 12, 2004
Attorney Docket No.

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition filed December 30, 2009 under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the renewed petition.

The petition is **GRANTED**.

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

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

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

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

accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

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

This matter is being referred to Technology Center Art Unit 3629 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.

/dab/
David Bucci
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
10/756,531	01/12/2004	3629	695		6	2

CONFIRMATION NO. 2327

CORRECTED FILING RECEIPT

45096
STEVEN HOROWITZ, ESQ.
295 MADISON AVE
SUITE 700
NEW YORK, NY 10017

Date Mailed: 03/09/2010

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)

David Tropp, Brooklyn, NY;

Power of Attorney:
Steven Horowitz--31768

Domestic Priority data as claimed by applicant

This application is a CIP of 10/706,500 11/12/2003 PAT 7,021,537

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 **US 10/756,531**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Method of improving airline luggage inspection

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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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
10/756,542	01/13/2004	1765	770	5308-166CT	4	15	2

CONFIRMATION NO. 3861

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

CORRECTED FILING RECEIPT

OC000000013017335

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)

Stephan Mueller, Durham, NC;

Domestic Priority data as claimed by applicant

This application is a CON of 09/862,108 05/21/2001 PAT 6,706,114

Foreign Applications

If Required, Foreign Filing License Granted: 04/16/2004

Projected Publication Date: 07/29/2004

Non-Publication Request: No

Early Publication Request: No

Title

Methods of fabricating silicon carbide crystals

Preliminary Class

117

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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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
10/756,543	01/13/2004	2818	770	5649-951DV	7	14	3

CONFIRMATION NO. 3863

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

CORRECTED FILING RECEIPT

OC000000012899444

Date Mailed: 06/10/2004

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

Applicant(s)

Jae-goo Lee, Seoul, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

This application is a DIV of 10/100,719 03/19/2002 PAT 6,709,915

Foreign Applications

REPUBLIC OF KOREA 2001-30772 06/01/2001

If Required, Foreign Filing License Granted: 04/16/2004

Projected Publication Date: 07/29/2004

Non-Publication Request: No

Early Publication Request: No

Title

Integrated circuit memory devices

Preliminary Class

438

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

GRANTED

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

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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SCOTT D. WOFSY
EDWARDS & ANGELL, LLP
P. O. BOX 9169
BOSTON MA 02209

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MAR 0 1 2010

In re Application of :
Amarjit PADAM et al. :
Application No. 10/756,571 : DECISION ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. **59882** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 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 Restriction Requirement, mailed December 11, 2007, and re-mailed on January 16, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the restriction December 11, 2007 is accepted as having been unintentionally delayed.

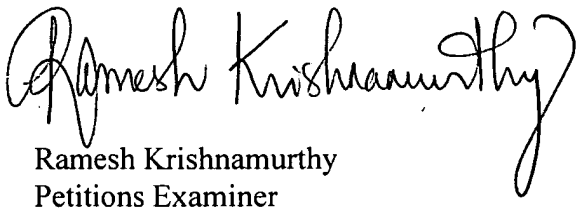
It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into 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 power of attorney filed May 13, 2009 cannot be accepted because the Statement under 37 CFR 3.73(b) is improper.

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). The evidence of a chain of title from original owner to assignee differs from our database. Assignment data on file at the office show MBI BENEFITS, INC. as the assignee and not META VANTE CORPORATION as identified in the Power of Attorney filed May 13, 2009.

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

This application is being referred to Technology Center AU 3627 for appropriate action on the concurrently filed amendment.



Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **GREENBERG TRAURIG (PHX)**
INTELLECTUAL PROPERTY DEPARTMENT
2450 COLORADO AVENUE , SUITE 400E
SANTA MONICA CA 90404

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : May 22, 2008

TO SPE OF : ART UNIT 2135

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/756597 Patent No.: 7296146 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response to the employee (named below) via scanning into application images, using document code COCP.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Think 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: _____

_____

_____

_____

_____

_____ 2135

SPE **Art Unit**

PAGE 2/2 * RCVD AT 6/2/2008 12:23:40 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/11 * DNIS:2709990 * CSID:703 308 4084 * DURATION (mm-ss):01-10

Pet. Dec.

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MAY 18 2004

Mailed: CST

In re application of Philippe R. Murcia Serial No. 10/756,602 Filed: January 13, 2004 For: ORGANICALLY CLEAN BIOMASS FUEL	: : : : :	DECISION ON PETITION

This is a decision on the petition filed March 16, 2004 requesting that the above-identified application be granted Special Status under sections 708.02 (V) and (VI) of the MPEP and 37 CFR 1.102(c) – no fee required.

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

The petition is GRANTED.

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

GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE
1 RIVERFRONT PLAZA
NEWARK NJ 07102-5497

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ZAGORIN O'BRIEN & GRAHAM, L.L.P.
7600B N. CAPITAL OF TEXAS HWY.
SUITE 350
AUSTIN, TX 78731

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OCT 07 2004

OFFICE OF PETITIONS

In re Application of :
Ghoshal :
Application No. 10/756,603 : NOTICE
Filed: January 13, 2004 :
Attorney Docket No. 089-0005 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed August 20, 2004.

As set forth at 37 CFR 1.28(c), the deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby **accepted.**

The change of status to a large entity has been entered and made of record.

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

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-27-05

Paper No.: _____

TO SPE OF : ART UNIT 2831

10756044

SUBJECT : Request for Certificate of Correction on Patent No.: 6835893

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

LSP 11/27/07

Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

SPE

2859

Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of	:	
David A. McGrew	:	
Application No. 10/756,633	:	ON PETITION
Filed: January 12, 2004	:	
Attorney Docket No. 50325-0835	:	

This is a decision on the petition under 37 CFR 1.314, filed March 23, 2007, to defer issuance of the patent for one month.

The petition is GRANTED.

The requested deferral period pursuant to MPEP 1306.01 has now passed. The amendment submitted on March 23, 2007 has been considered, in view of the Notice mailed April 30, 2007. Therefore, the application will be referred to Patent Publication.

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

Karen Creasy
Petitions Examiner
Office of Petitions

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

Hickman Palermo Truong & Becker, LLP
1600 Willow Street
San Jose, CA 95125

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OFFICE OF PETITIONS

In re Application of :
Cam-Winget et al. :
Application No. 10/756,634 : DECISION GRANTING PETITION
Filed: January 12, 2004 :
Attorney Docket No. 50325-0834 :

This is a decision on the petition filed June 14, 2004, requesting that the above-identified application be accorded a filing date of January 12, 2004, with pages 46 and 47 of the specification as part of the original disclosure.[1]

On January 12, 2004, applicants filed the above-identified application. On June 2, 2004, the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of January 12, 2004, and advising applicants that pages 46 and 47 of the specification appeared to have been omitted.

In response, on June 14, 2004, applicants filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of "Patent Application w/Cover Sheet & Express Mail Certificate of Mailing (56 pgs). Additionally, applicants submitted pages 46 and 47 of the specification.

Upon review of the record, pages 46 and 47 of the specification deposited on January 12, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on January 12, 2004, included pages 46 and 47 of the specification, which were subsequently

[1] The Office notes that the incorrect application No., 10/756,635, was placed on the petition filed June 14, 2004, instead of application No. 10/756,634. Applicants are reminded that the indication of an incorrect application number on papers submitted to the USPTO may delay prosecution of the application.

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misplaced in the United States Patent and Trademark Office. Therefore, the application, including pages 46 and 47 of the specification, was complete on filing and will be granted a filing date of January 12, 2004.

Accordingly, the petition is granted.

The Notice of Omitted Items mailed on June 2, 2004, was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be refunded to Deposit Account No. 50-1302.

The Office of Initial Patent Examination is directed to **accorded the above-identified application a filing date of January 12, 2004**, using the application papers submitted on that date, and pages 46 and 47 of the specification submitted on June 14, 2004.

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 9/8/09

2 Serial/Patent # 10/756,635

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	—	6/16/04	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 50--1302

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

This fee was paid in the wrong application
Please refund the $130, which was charged
incorrectly to 10/756,635 to Deposit Acct. No.

11 REFUND REQUESTED BY: C.T. Donnell

TYPED/PRINTED NAME: C.T. Donnell TITLE: Pet. Atty

SIGNATURE: C.T. Donnell PHONE: 306-5589

OFFICE: 4700

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 9/9/04

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

Office of Finance
Refund Branch
Crystal Park One, Room 802B

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FORM PTO 1577
(01/90)

Repln. Ref: 09/09/2004 AKELLEY 00075[illegible]000
DA#:501302 Name/Number:10756[illegible]4
FC: 9204 $130.00 CR

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

7/8/08

Patent No. :7360069
Inventor(s) : Simon C. Steely, Jr. et al.
Issued : 4/15/2008
Title : SYSTEMS AND METHODS FOR EXECUTING ACROSS AT LEAST ONE MEMEORY BARRIER EMPLOYING SPECULATIVE FILLS
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that Col.1 lines 12, 23 & col. 21. lines 23 & 28 is printed n accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, COLORADO 80527-2400

HR/CBN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/15/08

TO SPE OF : ART UNIT 2181 Ernest Unelus

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/756639 Patent No.: 7360069

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ 2181
SPE **Art Unit**

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OFFICE OF PETITIONS

ETHERTON LAW GROUP, LLC
2010 E. UNIVERSITY DRIVE, SUITE 25
TEMPE AZ 85281

In re Application of :
Steve C. Shanks, et al. :
Application No. 10/756,659 : ON PETITION
Filed: January 12, 2004 :
Attorney Docket No. 206-053 :

This is a decision in response to 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 within the meaning of 37 CFR 1.113 to the final Office action of April 15, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 16, 2008. On June 4, 2009, the present petition was filed. A Notice of Abandonment was subsequently mailed on July 7, 2009.

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

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 in the form of a "continuation-in-part application". The petition is not accompanied by a statement of express abandonment in favor of the filing of the continuation-in-part 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 continuation-in-part application, the statement will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

The petition, as construed, satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation-in-part application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

This application is being revived solely for the purpose of continuity with the Application No. 12/455,731, filed June 4, 2009. As continuity has been established by revival of this application, this application is again abandonment in favor of continuing Application No. 12/455,731.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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ST. JUDE MEDICAL NEUROMODULATION DIVISION
6901 PRESTON ROAD
PLANO, TX 75024

Mail Date: 04/20/2010

Applicant	: Brian Blischak	: DECISION ON REQUEST FOR
Patent Number	: 7569049	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/756,673	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **530** 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

SCHULTE ROTH & ZABEL LLP
ATTN: JOEL E. LUTZKER
919 THIRD AVENUE
NEW YORK NY 10022

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Patent No. 6,925,854

Issue Date: August 9, 2005

Application No. 10/756,675

Filed: January 13, 2004

Attorney Docket No. 057517/0053

ON PETITION

This is a decision on the petition filed August 29, 2006, 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**.

The fee for the request under 37 CFR 3.81(b) is $130.00. Accordingly, deposit account 50-0675 will be charged $130.00 for the request.

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DILLON & YUDELL, LLP
8911 NORTH CAPITAL OF TEXAS HWY.
SUITE 2110
AUSTIN, TX 78759

COPY MAILED
JUL 14 2006
OFFICE OF PETITIONS

In re Application of :
Jerry Joe Wolfe Jr., et al. :
Application No. 10/756,691 : ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. 084465.000002 :

This is a decision on the request to withdraw the holding of abandonment filed by facsimile transmission on July 27, 2005.

A non-final Office action was mailed to applicant on November 18, 2004, which set a three-month statutory period for response. As no reply was received, the application became abandoned on February 18, 2005.

Petitioner avers that a change of correspondence address with an amendment was filed by facsimile transmission on July 20, 2004. In support, petitioner has provided a copy of the change of correspondence address, which shows that the document was received by the USPTO Central Fax Center on July 20, 2004 prior to the mailing of the Office action.

In view of the above, the petition is **GRANTED** and the holding of abandonment is hereby withdrawn.

The non-final Office action will be re-mailed and the period for reply will be re-started.

The change of correspondence address filed on July 20, 2004 and again on June 8, 2006 has been entered and made of record.

This application file is being referred to Technology Center 3722, for re-mailing of the non-final Office action. The time period for responding to the Office action will be set to run from the new mailing date of the Office action. Extensions of time under 37 CFR 1.136(a) are permitted.

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

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-11-07

TO SPE OF : Technology Center 1624 10/7560695

SUBJECT : Request for Certificate of Correction on Patent No.: 7112578 B2

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

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

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

Comments:

Mr. James D. [illegible]
SPE

1624
Art Unit

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JUN 2 2004

Office of the Director
Group 3600

MATHEWS, COLLINS, SHEPHERD & MCKAY, PA
100 THANET CIRCLE, SUITE 306
PRINCETON, NJ 08540-3674

In re application of : **DECISION ON PETITION**
Paul Halas : **TO MAKE SPECIAL**
Application No. 10/756,714 : **(APPLICANT'S AGE)**
Filed: January 13, 2004 :
For: CORNER MOLDING CAP SYTEM

This is a decision on the petition submitted on January 13, 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. Halas 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/dcg: 5/26/04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

Fountainhead Law Group P.C.
Chad R. Walsh
900 LAFAYETTE STREET
SUITE 301
SANTA CLARA, CA 95050

Mail Date: 04/27/2010

Applicant	: Joachim Bender	: DECISION ON REQUEST FOR
Patent Number	: 7650590	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/756,720	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1352** 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
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AUG 3 2004

VP
PAPER NO. ___

In re Application of
Melvin Bingenheimer
Serial Number: 10/756,727
Filed: January 13, 2004
For: ARTICLE AND PROCESS FOR MAINTAINING ORIENTATION OF A FIBER REINFORCED MATT LAYER IN A SANDWICHED URETHANE CONSTRUCTION

PETITION UNDER
M.P.E.P.708.02 IV

This is in response to the petition filed March 30, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

GIFFORD, KRASS, GROH, SPRINKLE
ANDERSON & CITKOWSKI, PC
280 N OLD WOODARD AVE
SUITE 400
BIRMINGHAM MI 48009

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ROBERT J DEPKE
LEWIS T STEADMAN
ROCKEY DEPKE LYONS AND KITZINGER LLC
SUITE 5450 SEARS TOWER
CHICAGO IL 60606-6306

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AUG 24 2006
OFFICE OF PETITIONS

In re Application of
Masayoshi Sasaki :
Application No. 10/756,746 : DECISION ON
Filed: January 13, 2004 : PETITION
Attorney Docket No. 075834.00459 :

This is in response to the petition to revive under 37 CFR 1.137(b), filed January 31, 2006.

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

The above-identified application became abandoned for failure to pay the issue fee in response to the Notice of Allowance mailed November 5, 2004. This notice set a statutory period of three months for fee transmittal. No issue fee having been received, the application became abandoned on February 6, 2005. A Notice of Abandonment was mailed on May 25, 2005.

With the instant petition, petitioner paid the petition and issue fees, 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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LAW OFFICES OF
JACOBSON HOLMAN
PROFESSIONAL LIMITED LIABILITY COMPANY
400 SEVENTH STREET, N.W.
WASHINGTON, DC 20004

MAILED

MAR 18 2010

OFFICE OF PETITIONS

In re Application of :
Samuel Chun-Lap Lo, et al. :
Application No. 10/756,768 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No. P69448US0 :

This is a decision on the petition, filed December 14, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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

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.

This application became abandoned for failure to timely reply to the non-final Office action mailed September 15, 2006, which set a three month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a), this application became abandoned on December 16, 2006. A Notice of Abandonment was subsequently mailed on April 4, 2007. On December 14, 2009, the present petition was filed, along with a 2-month petition of time.

It is initially pointed out that extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $245 extension fees included with this petition is being refunded to counsel's deposit account.

Petitioner requests that the application be revived "in order to pay a two-month extension fee to carry the pendency of application 10/756,768 through 2/15/2007." Such statement is being construed to mean that petitioner requests that the application be revived for the purpose of continuity with a continuing application.

However, in order to facilitate this 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. Petitioner is also reminded that a letter of express abandonment may only be filed by an attorney of record.

Since no response was filed to the outstanding Office action in the present application, other than an improper extension of time request, the petition cannot be granted.

Any renewed petition with respect to this matter may 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]

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: TREVOR CHUANG
RM. R1007, SHIRLEY CHAN BUILDING
THE HONG KONG POLYTECHNIC UNIVERSITY
PARTNERSHIP DEVELOPMENT OFFICE
HUNG HOM, KOWLOON, HONG KONG

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LAW OFFICES OF
JACOBSON HOLMAN
PROFESSIONAL LIMITED LIABILITY COMPANY
400 SEVENTH STREET, N.W.
WASHINGTON DC 20004

MAILED

JUN 09 2010

OFFICE OF PETITIONS

In re Application of :
Samuel Chun-Lap Lo, et al. :
Application No.: 10/756,768 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No.: P69448US0 :

This is a decision on the renewed petition filed April 22, 2010, under 37 CFR 1.137(b) to revive the above-identified application for copendency with a continuing application.

The petition is **GRANTED**.

The application became abandoned on December 16, 2006 for a failure to timely reply to a non-final Office action, mailed September 15, 2006. A Notice of Abandonment was subsequently mailed on April 4, 2007. On December 14, 2009, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed March 18, 2010. On April 22, 2010, the present petition was filed, along with a Letter of Express Abandonment and a 2-month petition for extension of time.

Petitioner seeks revival solely for obtaining copendency with continuing application No. 11/656,421 filed January 23, 2007, in that the necessary continuity inadvertently was not maintained at that time.

It is noted that petitioner submitted fees totaling $1,055 for the present petition and a 2-month extension of time. The offer to make the belated payment of the 2-month extension of time fee under 37 CFR 1.136(a) is unnecessary and no petition fee is required for a renewed petition to revive. Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired, i.e., December 16, 2006. Accordingly, the $245 extension of time fees and the $810 petition fees submitted with the renewed petition are subject to refund.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The above-identified application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition now satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Since this application is being revived for purposes of continuity with application No. 11/656,421, and continuity having been established by this decision reviving the above-captioned application, the above-captioned application is again abandoned in favor of the continuing application.

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

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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Paper No.

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

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SEP 25 2006

OFFICE OF PETITIONS

In re Patent No. 7,027,178	:	LETTER REGARDING
Issue Date: April 11, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/756,772	:	AND
Filed: January 14, 2004	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 00862.021896.1	:	CERTIFICATE OF CORRECTION

This letter is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT" filed June 5, 2006. Pursuant to patentees' duty of good faith and candor to the Office, patentees indicate that the Patent Term Adjustment shown in the PAIR system appears to indicate an incorrect number.

The request for reconsideration of patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred seventy-four (174) days.

On April 11, 2006, this application matured into U.S. Patent No. 7,027,178, with a revised patent term adjustment of 206 days. Patentees disclose no basis for their assertion that the patent term adjustment may be incorrect.

Nonetheless, a review of the application history reveals bases for entry of periods of reduction for applicant delay, pursuant to 37 CFR 1.704(c)(10). This rule 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:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, 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; or
>
> (ii) Four months;

The Notice of Allowance was mailed on October 12, 2005. Two papers were filed thereafter, an Information Disclosure Statement (IDS) on December 6, 2006 and a letter on April 4, 2006. The IDS was not expressly requested by the examiner and did not include a § 1.704(d) statement. The letter filed April 4, 2006 is not of the type the Director does not consider to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001); See MPEP 2732. The Office acted in response to the IDS on December 29, 2006 and the patent issued on April 11, 2006. Thus, the periods of reduction are 24 days for the period beginning on the date the IDS was filed, December 6, 2006 to the date the Office took action in response, December 29, 2006, and 8 days for the period beginning on the date the letter was filed, April 4, 2006, to the date the patent issued, April 11, 2006.

In view thereof, the patent should have issued with a revised patent term adjustment of one hundred seventy-four (174) days.

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(d). The Office

thanks patentees for their good faith and candor in bringing this to the attention of the Office.

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 one hundred seventy-four (174) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,027,178 B2

DATED : April 11, 2006

INVENTOR(S) : Satomi 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 (206) days

Delete the phrase "by 206" and insert – by 174 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

COPY MAILED

DEC 15 2006

OFFICE OF PETITIONS

In re Application of :
EZRIN, et al. :
Application No. 10/756,774 : DECISION ON PETITION
Filed: January 12, 2004 : TO WITHDRAW
Attorney Docket No. 500862001810 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 2006.

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

A review of the file record indicates that the power of attorney to Michael R. Ward of MORRISON & FOERSTER LLP has been revoked by the assignee of the patent application on November 7, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/756,774	01/12/2004	Alan M. Ezrin	500862001810

CONFIRMATION NO. 5612

OC000000021620432

20872
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

Date Mailed: 12/15/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/07/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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
10/756,774	01/12/2004	Alan M. Ezrin	500862001810

CONFIRMATION NO. 5612

OC000000021620459

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

Date Mailed: 12/15/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/07/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Patent of Su et al.	:	DECISION ON REQUEST
Patent No. 7,554,895	:	FOR RECONSIDERATION OF
Issue Date: June 30, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/756,779	:	AND NOTICE OF INTENT TO
Filing Date: January 14, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. 320528615US	:	CORRECTION

This is a decision on the petition filed on August 31, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred ninety-one (791) 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 seven hundred ninety-one (791) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of delay under 35 U.S.C. § 154(b)(1)(B), the over three year period began on January 15, 2007, and ended on September 23, 2007, *the day before* the RCE was filed, and is 252 (not 253) days. *See* 35 U.S.C. § 154(b)(1)(B)(i). As such, the patent term adjustment is 790 days, not 791 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred ninety (790)** days.

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

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,554,895 B2
ISSUE DATE	:	June 30, 2009
INVENTOR(S)	:	Su 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 538 days.

Delete the phrase "by 538 days" and insert - by 790 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/756,784	01/13/2004	2643	1518	9400-63 (030409)	29	52	5

CONFIRMATION NO. 2875

Robert W. Glatz
Myers Bigel Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh, NC 27627

CORRECTED FILING RECEIPT

OC000000012889652

Date Mailed: 06/07/2004

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)

Nicolas Steven Huslak, Duluth, GA;
Edgar Vaughan Shrum JR., Smyrna, GA;
Scott Traynham Stillman, Peachtree City, GA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/470,650 05/15/2003

Foreign Applications

If Required, Foreign Filing License Granted: 04/20/2004

Projected Publication Date: 11/18/2004

Non-Publication Request: No

Early Publication Request: No

Title

Videoconferencing using managed quality of service and/or bandwidth allocation in a regional/access network (RAN)

Preliminary Class

348

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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RALEIGH, NC 27627

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OCT 15 2004

OFFICE OF PETITIONS

In re Application of :
Anschutz, et al. :
Application No. 10/756,790 : DECISION GRANTING PETITION
Filed: January 13, 2004 :
Attorney Docket No. 940062 :

This is a decision on the petition filed August 16, 2004, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of January 13, 2004, rather than the presently accorded filing date of January 14, 2004.

Petitioner alleges that the application was deposited with the Express Mail Service on January 13, 2004. In support of the allegation, the petition is accompanied by a copy of the Express Mail postcard with a tracking number EV381447474US showing a "date-in" of January 13, 2004. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on January 13, 2004.

In view of the above, the petition is granted. The new filing date for the above-cited application is January13, 2004.

The Office of Initial Patent Examination will further process the application with a filing date of January 13, 2004, and issue a corrected filing receipt.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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JHK LAW
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LA CANADA CA 91012-1078

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FEB 1 1 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
Bamdad, et al.
Application No. 10/756,802
Filed: January 13, 2004
Attorney Docket No. M1015.70070US01
For: OLIGONUCLEOTIDE IDENTIFIERS

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

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

This application became abandoned for failure to timely respond to the final Office action mailed January 31, 2007, which set an extendable three month period for reply. No proper extension of time or reply being received in the Office, this application became abandoned on May 1, 2007. A Notice of Abandonment was mailed on November 2, 2007.

Applicants have submitted a RCE and $405.00 fee and amendment in reply to the January 31, 2007 final Office action, a proper statement of the unintentional nature of the delay in responding to the January 31, 2007 final Office action, and the $770.00 petition fee. Therefore, the petition is granted.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $525.00 extension of time submitted with the petition on December 21, 2007 was filed subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's credit card.

After the mailing of this decision the application will be forwarded to Technology Center AU 1634 for consideration of the RCE and amendment filed on December 21, 2007.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

2-7-08

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. : 7,105,020
Inventor(s) : Roy K. Greenberg, et. al.
Issued : September 12, 2006
For: BRANCHEDVESSEL ENDOLUMINAL DEVICE

Re. Request for Certificate of Correction

Consideration has been given your request under the provisions of Rule 1.322.

The alleged error in column 22, line 2, claim 13 is printed in accordance with the record.

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

For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or 125

Jason W. Schigelone
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinis 60610

ej

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MAXYGEN, INC.
INTELLECTUAL PROPERTY DEPARTMENT
515 GALVESTON DRIVE
RED WOOD CITY CA 94063

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DEC 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Halkier, et al. :
Application No. 10/756,813 : ON PETITION
Filed: January 12, 2004 :
Attorney Docket No. 0201us622 :
For: A METHOD FOR PREPARING MODIFIED POLYPEPTIDES :

This is a decision on the petition, filed October 25, 2004 (certificate of mailing date October 20, 2004), requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed September 16, 2004, insofar as it alleges that pages 74 and 75 of the specification appeared to have been omitted from the initial filing. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **DISMISSED**. Any further reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

The application was filed on January 12, 2004. On September 16, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that pages 74 and 75 of the specification appeared to have been omitted.

In response to the Notice, petitioners filed the present petition. Petitioners request that pages 74 and 75 be accorded a filing date of January 12, 2004 on the basis that 75 pages of specification, 4 pages of claim, and one page of Abstract, totaling 80 pages of application, were received in the Patent and Trademark Office (PTO) on January 12, 2004. It is noted that only 78 pages of application are present in the application file.

Unfortunately, the instant petition is incomplete. The supporting evidence cited in the petition, the date stamped postcard receipt, cannot be located. Petitioners are requested to submit another

copy of the date stamped postcard receipt.

The application file will be retained in the Office of Petitions until the date stamped postcard receipt is re-submitted

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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RED WOOD CITY CA 94063

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FEB 09 2005

OFFICE OF PETITIONS

In re Application of :
Halkier, et al. :
Application No. 10/756,813 : ON PETITION
Filed: January 12, 2004 :
Attorney Docket No. 0201us622 :
For: A METHOD FOR PREPARING MODIFIED POLYPEPTIDES :

This is a decision on the reconsideration petition, filed January 24, 2005 (certificate of mailing date January 17, 2005), requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed September 16, 2004, insofar as it alleges that pages 74 and 75 of the specification appeared to have been omitted from the initial filing.

The application was filed on January 12, 2004. On September 16, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that pages 74 and 75 of the specification appeared to have been omitted.

Petitioners request that pages 74 and 75 be accorded a filing date of January 12, 2004. In support, the reconsideration petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing January 12, 2004 as the date of receipt. The postcard lists that the filing included, *inter alia*, 75 pages of specification It is noted that only 73 pages of specification are present in the application file.

The return postcard constitutes *prima facie* evidence that 75 pages of specification, including pages 74 and 75, were filed on January 12, 2004. MPEP 503. Accordingly, the request is **GRANTED**.

Regarding finances, the Office erroneously charged an additional $400.00 petition fee on January 27, 2005. This fee as well as the $130.00 petition fee submitted with the first petition will be credited to deposit account, no. 50-0990.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of January 12, 2004, using the copy of pages 74 and 75 submitted on October 25, 2004 (certificate of mailing date October 20, 2004).

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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BRAD PEDERSEN
PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

COPY MAILED
SEP 25 2006
OFFICE OF PETITIONS

In re Application of :
Haines, Timothy G. :
Application No. 10/756,817 : ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. 3293.03US10 :

This is a decision on the petition under 37 CFR §1.102(d), filed July 6, 2006, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Technology Center Art Unit 3733 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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AUG 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,344,541
Issued: March 18, 2008
Application No. 10/756,817
Filed: January 13, 2004
Attorney Docket No.: 3293.03US10

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.183 and § 1.705(d)", requesting that the Office suspend the rules and consider on the merits a request for reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the request for reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d), all of which were filed on December 1, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On March 18, 2008, the above-identified application matured into U.S. Patent No. 7,344,541, with a revised patent term adjustment of 478 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a request for reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed petition under 37 C.F.R. § 1.705(d) for

Patent Term Adjustment. Patentee makes this request, "in accordance with the requirements of justice" and in view of the extraordinary situation presented by the recent decision in *Wyeth v. Dudas*, No. 07-1492 (D.D.C. Sept. 30, 2008)."

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on March 18, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until December 1, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the request for reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by May 18, 2008, the date two months from the date this patent issued, March 18, 2008. Rather, on December 1, 2008, nearly two months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be

imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Preliminarily, it is recognized that the two-month requirement of 37 CFR 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent. As such, it is within the Director's authority to waive the two-month requirement.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is "the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)."

Specifically, petitioner states that the basis for this petition is due to a case decided by the United States District Court for the District of Columbia on September 30, 2008, whereby that date is more than two months and less than six months with respect to the patent issuance date of the above-identified patent.

In Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

Petitioner argues that they could not have filed a request for reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the request for reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

First, of all, the issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A)[2], Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not compelling. Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chose not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to

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[2] 35 U.S.C. 154(b)(4)(A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION. – (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

Moreover, justice does not require waiver of the two-month requirement. Justice requires that the Office continue to devote its resources to the adjudication of timely filed requests for reconsideration under 37 CFR 1.705(b) and (d). Further, upon ultimate resolution of the interpretation of 37 CFR 1.702, justice requires that the Office determine consistent with relevant law and practice, and appropriate Court or legislative guidance, the applicability of any changes as to all affected patentees who failed to timely seek administrative remedy, and thus, could not seek judicial review.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **DISMISSED**.

Accordingly, consideration now turns to the request for reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705

This is a decision on the petition under 37 C.F.R. §1.705 filed December 1, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to six hundred sixty-three (663) days.

On March 20, 2008, the above-identified application matured into U.S. Patent No. 7,344,541 with a revised patent term adjustment of 478 days. The instant request for reconsideration was filed more than two months after the issuance of the patent, on December 1, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) and the fee for the petition under 37 CFR 1.183 in the amount of $400.00.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Christina Tartera Donnell for

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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NINETEENTH FLOOR
1621 EUCLID AVENUE
CLEVELAND, OH 44115-2191

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OFFICE OF PETITIONS

In re Application of :
Kevin E. Myszka, et al. :
Application No. 10/756,824 : DECISION ON PETITION
Filed: January 13, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NEXPP0179USD :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 12, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

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 Fred H. Zollinger III appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Zollinger desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record.

The petition is **DISMISSED**.

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

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

The reference to add the prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

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

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

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

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

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Petitions Examiner
Office of Petitions

cc: FRED H. ZOLLINGER III
ZOLLINGER & BURLESON LTD
P. O. BOX 2368
NORTH CANTON, OH 44720

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/756,824	01/13/2004	3728	1100	NXO15eOcUSd	18	1

CONFIRMATION NO. 2383

45069
FRED ZOLLINGER III
P.O. BOX 2368
NORTH CANTON, OH 44720

CORRECTED FILING RECEIPT

OC000000023066162

OC000000023066162

Date Mailed: 03/23/2007

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)

Kevin E. Myszka, Kent, OH;
James M. Byrne, Massillon, OH;

Power of Attorney: The patent practitioners associated with Customer Number **45069**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/294,059 11/14/2002 PAT 6,675,963
which is a CON of 09/769,033 01/24/2001 PAT 6,516,945

Foreign Applications

If Required, Foreign Filing License Granted: 04/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/756,824

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Device for locking a media disc to a retaining hub

Preliminary Class

206

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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FRED ZOLLINGER III
P.O. BOX 2368
NORTH CANTON, OH 44720

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Kevin E. Myszka, et al. :
Application No. 10/756,824 : DECISION ON PETITION
Filed: January 13, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NEXPP0179USD :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 9, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3728 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Chapin Intellectual Property Law, LLC
Westborough Office Park
1700 W. Park Drive, Suite 280
Westborough, MA 01581

Mail Date: 04/30/2010

Applicant	: Ran Mochary	: DECISION ON REQUEST FOR
Patent Number	: 7664639	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/756,828	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1736** 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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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of
Sam Siau and Jan Vanfleteren
Application No.10/756,846
Filed: January 13, 2004
Attorney Docket No. IMEC323.001AUS
Title of Invention: METHOD FOR PLATING AND PLATING SOLUTION THEREFOR

DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a) filed November 15, 2004.

The petition is GRANTED.

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

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

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

Deposit account No.11-1410 is being charged the $130.00 petition fee.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Sam Suai
Burgemeestersplein 17
9300 Aalst
Belgium

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of
Sam Siau and Jan Vanfleteren
Application No.10/756,846
Filed: January 13, 2004
Attorney Docket No. IMEC323.001AUS
Title of Invention: METHOD FOR PLATING AND PLATING SOLUTION THEREFOR

: LETTER

Dear Mr. Suai:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

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

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MAIL

JUN 2 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

PROCOPIO, CORY, HARGREAVES &
SAVITCH, LLP
530 B Street
Suite 2100
San Diego, CA 92101

In re Application of:
Steve BUICE, et al.
Application No. 10/756,867
Filed: January 13, 2004
For: APPARATUS AND METHOD FOR CREATION AND EXCHANGE OF DATA FIELDS

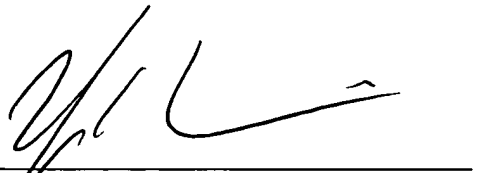
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 6, 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.**

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED.**

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



for

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

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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101

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OFFICE OF PETITIONS

In re Application of :

BUICE, Steve et al. :
Application No. 10/756,867 :
Filed: January 13, 2004 :
Attorney Docket No. **1388-PPA01** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 02, 2005 and re-submitted on November 04, 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 do 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 Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **STEVE BUICE**
4979 SMITH CANYON COURT
SAN DIEGO, CA 92130

cc: **GARY L. EASTMAN**
EASTMAN & ASSOCIATES
707 BROADWAY STREET, SUITE 1800
SAN DIEGO, CA 92101

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APR 27 2007

Technology Center 2100

Ping Gu
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053

In re Application of: Nakazawa, Hiroaki
Application No. 10/756,883
Filed: January 13, 2004
For: ADDRESS QUERY RESPONSE METHOD, PROGRAM, AND APPARATUS, AND ADDRESS NOTIFICATION METHOD, PROGRAM, AND APPARATUS

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed March 21, 2007 to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO

application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fail to include:

A. Item 3 above. Specifically,

1) The preliminary amendment filed on 3/21/2007 in the US application cancels claims 1-18, and adds claims 19-28. However, the dependent claims 20-24 and 26-27 refer to cancelled claims 1-8 for their dependency.

Applicant is requested to review the claims in view of the comments above to make sure that the claims are in compliance with the guidelines set forth above for a grantable petition to make special.

The Petition is **DISMISSED**.

Applicant is given a time period of ONE MONTH or THIRTY DAYS, whichever is longer, to correct the deficiencies. NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.
If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Mano Padmanabhan at 571-273-4210 (RightFax) or 571-273-0308.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

Mano Padmanabhan

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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 5 2 2007

TECHNOLOGY CENTER 2100

Ping Gu
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053

In re Application of: Nakazawa, Hiroaki
Application No. 10/756,883
Filed: January 13, 2004
For: ADDRESS QUERY RESPONSE METHOD, PROGRAM, AND APPARATUS, AND ADDRESS NOTIFICATION METHOD, PROGRAM, AND APPARATUS

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed March 21, 2007, and the request for reconsideration of adverse decision filed June 5, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO

application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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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SEP 22 2008
OFFICE OF PETITIONS

HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO, CA 92122

In re Application of :
WEST, John Randall et al. :
Application No. 10/756,894 : DECISION ON PETITION
Filed: January 13, 2004 : TO WITHDRAW
Attorney Docket No. **SYM 0002** : 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 08, 2008.

The request is not approved because it is **moot**.

A review of the file record indicates that the power of attorney to HELLER EHRMAN LLP has been revoked by the assignee of the patent application on September 02, 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
Paralegal Specialist
Office of Petitions

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
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ALEXANDRIA, VA 22313-1450
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JUN 2 2004

Office of the Director
Group 3600

LEWIS M. BRANDE
5976 FALLING TREE LANE
ALTA LOMA, CA 91737-2816

In re application of : **DECISION ON PETITION**
Paul Anderegg : **TO MAKE SPECIAL**
Application No. 10/756,921 : **(APPLICANT'S AGE)**
Filed: January 14, 2004 :
For: TWO WAY HINGE FOR MOTOR VEHICLE DOORS

This is a decision on the petition submitted on February 27, 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. Anderegg 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/slb: 05/26/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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MAY 19 2004

OFFICE OF PETITIONS

In re Application of
Pan, Yang & Chen
Application No. 10/756,923
Filed: January 13, 2004
Attorney Docket No. 23340-08598
For: FABRICATION OF A REFLECTIVE SPATIAL LIGHT MODULATOR

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 13, 2004.

It appears that petitioners have submitted documents with the intention of having an entity with a proprietary interest intervene and make the application on behalf of the non-signing inventor. Petitioners are reminded that when at least one joint inventor signs, the provisions of 37 CFR 1.47(a) apply. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b). MPEP 409.03(b). Therefore, the petition will be treated under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is granted.

Petitioners have shown that the non-signing inventor, Shaoher X. Pan, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, exhibits to the petition establish that the inventor received a copy of the application papers as filed, but constructively refused to sign the declaration through his attorney, Frederick D. Baron. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.[1]

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.

After this decision is mailed, the above-identified application will be forwarded to Technology

---

[1] As explained above, a party with proprietary interest cannot file an application when at least one joint inventor signs the declaration. Fortunately, the present declaration was signed by the two available joint inventors and the nonsigning inventor's signature block was left blank. Therefore, the declaration is acceptable under 37 CFR 1.47(a). The added page to the declaration, signed by an empowered representative of a company with proprietary interest will **not** be considered part of the declaration. The added page will be retained in the application file, however.

Center 1700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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SHAOHER X. PAN
1133 KELEZ DRIVE
SAN JOSE, CA 95120

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MAY 19 2004
OFFICE OF PETITIONS

In re Application of
Pan, Yang & Chen
Application No. 10/756,923
Filed: January 13, 2004
Attorney Docket No. 23340-08598
For: FABRICATION OF A REFLECTIVE SPATIAL LIGHT MODULATOR

LETTER

Dear Dr. Pan:

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
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: JENNIFER R. JOHNSON
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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SILICON VALLEY CENTER
801 CALIFORNIA STREET
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MAY 24 2004

OFFICE OF PETITIONS

In re Application of :
Pan, Yang, Chen, and Zhang :
Application No. 10/756,936 : DECISION ACCORDING STATUS
Filed: January 13, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 23340-08599 :
For: Reflective Spatial Light Modulator :

This is in response to the petition under 37 CFR 1.47(b), filed January 13, 2004, which has been treated as a petition under 37 CFR 1.47(a).[1]

The petition is granted.

Petitioner has shown that Dr. Shaoher X. Pan, 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 Greg T. Sueoka, a registered practitioner, establishes that the inventor was mailed 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

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance because all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign, accordingly the petition will be treated as a petition under 37 CFR 1.47(a).

address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The application will be examined in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Biotechnology Law Group
c/o PORTFOLIO IP
P.O. Box 52050
Minneapolis, MN 55402

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OCT 20 2008

OFFICE OF PETITIONS

In re Application of :
Edward Nolan et al. :
Application No. 10/756,946 : ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. GTI-1130-CT2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 27, 2008, to revive the above-identified application.

The petition is **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 s to timely pay the issue and publication fees on or before November 1, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed August 1, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 2, 2006.

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

Petitioner has stated on the PTOL-85(b) (Issue Fee Transmittal) that "[a]pplicant is no longer claiming SMALL ENTITY status," paid the issue fee ($1440) as an large entity and the petition fee ($770) as a small entity. Accordingly, since petitioner is no longer claiming small entity the petition fee **can not** be paid at small entity fee rate. However, effective October 2, 2008, the Patent and Trademark Office fees has increased. A petition to revive under large entity is now $1620, and the balance owed reflects the new current fees. Therefore, petitioner must submit the balance of $850 towards the fee for a petition to revive under 37 CFR 1.137(b) before this application can be revived.

The instant petition is signed by the attorney of record. However, the address on the petition differs from the address of record. There is no indication that a new change of address has been filed. Therefore, if petitioner desires to receive future correspondence to the address listed on the petition regarding this application, the appropriate change of address 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.

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 JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Daniel M. Chambers
527 N Highway 101
Suite E

10/756946 Examiner: KENNEDY, SHARON GAU: 1615
Inventor: NOLAN , EDWARD, et al Classification: 604/021.000
Status: 164 - ABANDONED -- FAILURE TO PAY ISSUE FEE
Title: ELECTRICAL FIELD THERAPY WITH REDUCED HISTOPATHOLOGICAL CHANGE IN MUSCLE
Start Date: End Date:

bib_fee report (9 items, not sorted)

Acct Date	Seq. Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
02/27/2008	128	1	1501	$1,440.00	02/27/2008	CK
02/27/2008	129	1	1504	$300.00	02/27/2008	CK
02/27/2008	44	1	2453	$770.00	02/27/2008	CK
06/22/2006	63	1	2253	$510.00	06/20/2006	CC
06/22/2006	64	1	2814	$65.00	06/20/2006	CC
11/25/2005	49	1	2253	$510.00	11/23/2005	CC
01/22/2004	77	1	8021	$40.00	01/13/2004	CK
01/16/2004	83	1	2001	$385.00	01/13/2004	CK
01/16/2004	84	1	2202	$162.00	01/13/2004	CK

OIPE
FEB 27 2008
PATENT & TRADEMARK OFFICE

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (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)

35938 7590 08/01/2006

Daniel M. Chambers
BioTechnology Law Group
c/o PORTFOLIO IP
P.O. Box 52050
Minneapolis, MN 55402

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.

Daniel M. Chambers	(Depositor's name)
	(Signature)
25 Feb 2008	(Date)

02/27/2008 FMETEKI2 00000056 10756946

01 FC:1501 1440.00 OP
02 FC:1504 300.00 OP

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,946	01/13/2004	Edward Nolan	GTI-1130-CT2	3283

TITLE OF INVENTION: ELECTRICAL FIELD THERAPY WITH REDUCED HISTOPATHOLOGICAL CHANGE IN MUSCLE

02/27/2008 FMETEKI2 00000063 10756946

01 FC:1501 1440.00 OP
02 FC:1504 300.00 OP

02/27/2008 FMETEKI2 00000062 10756946
01 FC:2501 730.00 OP
02 FC:2504 300.00 OP

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	1,440.00	300.00	1,740.00	11/01/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
KENNEDY, SHARON E.	1615	604-021000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Daniel M. Chambers
2 Douglas C. Murdock
3 BioTechnology Law Group

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: GENETRONICS, INC.

(B) RESIDENCE: (CITY and STATE OR COUNTRY): 11494 Sorrento Valley Road, San Diego, CA 92121-1318

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☑ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:
☑ Issue Fee
☑ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):
☑ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
☑ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date 25 Feb 2008

Typed or printed name Daniel M. Chambers Registration No. 34,561

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.

For DAC

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) GTI-1130-CT2

First named inventor: Edward Nolan

Application No.: 10/756,946 Art Unit: 1615

Filed: January 13, 2004 Examiner: KENNEDY, Sharon E.

Title: Electrical Field Therapy with Reduced Histopathological Change in Muscle

OIPE MAP76
FEB 27 2008
PATENT & TRADEMARK OFFICE

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee
☑ Small entity-fee $ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

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

02/27/2008 CCHAU1 00000029 10756946
01 FC:2453 770.00 OP

2. Reply and/or fee

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

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

B. The issue fee and publication fee (if applicable) of $ 1,740.00.
☐ has been paid previously on _____.
☑ is enclosed herewith.

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	25 Feb 2008 Date
Daniel M. Chambers Typed or printed name	34,561 Registration Number, if applicable
527 N. Highway 101, Suite E Address	858 350 9690 Telephone Number
Solana Beach CA 92075-1173 Address	

Enclosures: ☑ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

25 Feb 2008 Date	Signature Daniel M. Chambers (Reg. No. 34,561) Typed or printed name of person signing certificate

PTO/SB/21 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

OIPE FEB 27 2008 PATENT & TRADEMARK OFFICE

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission: 8

Application Number	10/756,946
Filing Date	January 13, 2004
First Named Inventor	E Nolan
Art Unit	1615
Examiner Name	KENNEDY, Sharon E.
Attorney Docket Number	GTI-1130-CT2

ENCLOSURES *(Check all that apply)*

- [x] Fee Transmittal Form
- [x] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Reply to Missing Parts/ Incomplete Application
  - [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [x] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
  - [ ] Landscape Table on CD
- [ ] After Allowance Communication to TC
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) (please Identify below):
  1. Petition for Revival of an Applicatin for Patent Abandoned Unintentionally
  2. Part B - Fee(s) Transmittal
  3. Return Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	BioTechnology Law Group		
Signature			
Printed name	Daniel M. Chambers		
Date	25 Feb 2008	Reg. No.	34,561

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Daniel M. Chambers	Date	25 Feb 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

OIPE MAP76 FEB 27 2008 PATENT & TRADEMARK OFFICE

PTO/SB/17 (10-07)
Approved for use through 06/30/2010. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2008

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT	($) 2,510.00

Complete If Known	
Application Number	10/756,946
Filing Date	January 13, 2004
First Named Inventor	E Nolan et.al
Examiner Name	KENNEDY, Sharon E.
Art Unit	1615
Attorney Docket No.	GTI-1130-CT2

METHOD OF PAYMENT (check all that apply)

☑ Check ☐ Credit Card ☐ Money Order ☐ None ☑ Other (please identify): 2 checks enclosed

☐ Deposit Account Deposit Account Number:_____ Deposit Account Name:_____

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 underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

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

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	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)	210	105
Multiple dependent claims	370	185

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
0 - 20 or HP =	0 x	50.00 =	0.00

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
0 - 3 or HP =	0 x	210.00 =	0.00

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims Fee ($)	Fee Paid ($)
0.00	0.00

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 $260 ($130 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): Issue & Publication: 1,740.00 & Revival: 770.00	2,510.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 34,561	Telephone 858 350 9690
Name (Print/Type)	Daniel M. Chambers		Date 25 Feb 2008

This collection of information is required by 37 CFR 1.136. 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 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Biotechnology Law Group
c/o PORTFOLIO IP
P.O. Box 52050
Minneapolis, MN 55402

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JAN 0 6 2009

OFFICE OF PETITIONS

In re Application of :
Edward Nolan et al. :
Application No. 10/756,946 : ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. GTI-1130-CT2 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure s to timely pay the issue and publication fees on or before November 1, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed August 1, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 2, 2006.

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

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant. Therefore, as the petition is not signed by all the inventors or the petitioner, the petition is considered to not contain a proper statement of unintentional delay.

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 JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Biotechnology Law Group
c/o PORTFOLIO IP
P.O. Box 52050
Minneapolis, MN 55402

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JUN 10 2009

OFFICE OF PETITIONS

In re Application of :
Edward Nolan et al. :
Application No. 10/756,946 : ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. GTI-1130-CT2 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before November 1, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed August 1, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 2, 2006.

Petitioner had two (2) months from January 9, 2009, to file a renewed petition. However, the petition was received outside the time frame given by the decision. Therefore, as authorized, $490 for a two (2) months extension of time filed on June 4, 2009, will be charged to petitioner credit card.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440.00 and the publication fee of $300.00, and corrected drawings (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

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

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

Ramesh Krishnamurthy
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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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DEC 16 2008

OFFICE OF PETITIONS

In re Application of
Norman Krasner
Application No. 10/756,947
Filed: January 13, 2004
Attorney Docket No. 000730C1

DECISION ON PETITION

This is a decision on the petition, filed September 25, 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 timely pay the issue and publication fees on or before January 31, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed October 31, 2007.

On October 31, 2007 (the same day the Notice of Allowance was mailed), petitioner submitted a Request for Continued Examination (RCE) with an Information Disclosure Statement (IDS) as the submission requirement.

It appears that the correspondence crossed in the mail. Nonetheless, the RCE reopened prosecution.

Accordingly, the holding of abandonment for failure to timely file a reply to the Notice of Allowance of October 31, 2007 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 2617 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.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 07/23/2010

Applicant	: Norman F. Krasner	: DECISION ON REQUEST FOR
Patent Number	: 7650156	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/756,947	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **305** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Fenwick & West, LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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APR 28 2004

OFFICE OF PETITIONS

In re Application of :
Shaoher X. Pan, et al. :
Application No. 10/756,972 : ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. 23340-08600 :

This is in response to the petition under 37 CFR 1.47(a), filed January 13, 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 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dr. Shaoher X. Pan
1133 Kelez Drive
San Jose, CA 95120

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APR 28 2004
OFFICE OF PETITIONS

In re Application of
Shaoher X. Pan; Xiao Yang; Dongmin Chen; and Shoucheng Zhang
Application No. 10/756,972
Filed: January 13, 2004
For: ARCHITECTURE OF A REFLECTIVE SPATIAL LIGHT MODULATOR

Dear Dr. Pan:

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 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 Marianne Morgan at (703) 306-3475. 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, DC area).

Marianne C. Morgan

Marianne Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Fenwick & West, LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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MAY 1 2 2005

OFFICE OF PETITIONS

In re Application of
PAN, SHAOHER X.
Application No. 10/756,972
Filed: January 13, 2004
For: ARCHITECTURE OF A REFLECTIVE SPATIAL LIGHT MODULATOR

: Decision
: On
: Access

This is in response to a petition filed May 17, 2004, by Dongmin Chen on behalf of Miradia, Inc., the assignee of record, requesting that the inventor Shaoher X. Pan be excluded from access to the application.

The petition is **DISMISSED**.

On July 29, 2004 , the above referenced pending application was published as application publication no. 20040145795. Upon publication, the Office will furnish any person on request the application-as-filed, the file contents of the application, or a specific document in the file. See 37 CFR 1.14(a)(1)(iii). Since the contents of the application file are no longer confidential, the request to bar the inventor from the application contents is dismissed as moot.

Telephone inquiries should be directed to Michael L. Lewis at (571) 272-7755.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Mr. Shaoher X. Pan
1133 Kelez Drive
San Jose, CA. 95120

United States
Patent And
Trademark Office

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

PETITION DECISION

03/19/04

Gordon R. Moriarty
Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PGPub replacement drawings for application number 10/756973 received on 02/20/04 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUL 21 2006

OFFICE OF PETITIONS

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

In re Application of :
Parker, et al. :
Application No.: 10/756,973 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No: **PKRG-002XX** :

This is in response to the petition under 37 CFR 1.137(b) filed May 22, 2006.

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

On April 24, 2004, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two-month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required an executed oath or declaration, $65.00 surcharge, and replacement drawings . A proper reply was not received within the allowable period, and the application became abandoned on July 25, 2004. A Notice of Abandonment was mailed on March 27, 2006

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

The executed declaration filed May 22, 2006, is noted and made of record.

The Revocation of Power of Attorney and Appointment of Attorney, filed May 22, 2006, is noted but cannot be entered as it is signed by a purported assignee, but a certificate under 37 CFR 3.73(b) has not been filed giving the assignee power to take action in the prosecution. 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.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
John K. Buche
Buche & Associates, PC
7777 Fay Avenue, Suite 205
LaJolla, CA 92037

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United States Patent and Trademark Office
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APR 27 2007

OFFICE OF PETITIONS

SHEMWELL MAHAMEDI LLP
4880 STEVENS CREEK BOULEVARD
SUITE 201
SAN JOSE CA 95129

In re Application of :
Kevin P. Grundy, et al. :
Application No. 10/757,000 : DECISION ON PETITION
Filed: January 13, 2004 : TO WITHDRAW
Attorney Docket No. SIPI.P117 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 12, 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 Charles E. Shemwell on behalf of all attorneys of record who are associated with customer No. 30554.

All attorneys/agents associated with the Customer Number 30554 have been withdrawn.

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

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

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

There is an outstanding Office action mailed December 11, 2006 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN P. GRUNDY
43525 VISTA DEL MAR
FREMONT, CA 94539

cc: RONALD R. SHEA
6244 ROYAL OAK COURT
SAN JOSE, CA 95123

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
10/757,000	01/13/2004	Kevin P. Grundy	SIPI.P117

CONFIRMATION NO. 4885

OC000000023362596

OC000000023362596

30554
SHEMWELL MAHAMEDI LLP
4880 STEVENS CREEK BOULEVARD
SUITE 201
SAN JOSE, CA 95129

Date Mailed: 04/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/12/2006.

- 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.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Ray L. Weber
Renner, Kenner, Greive, Bobak, Taylor & Weber
Fourth Floor
First National Tower
Akron OH 44308-1456

COPY MAILED

MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Thompson, et. al : DECISION ON PETITION
Application No. 10/757,003 :
Filed: January 13, 2004 :
Docket No.: ABR.B007A :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 22, 2007.

The petition is hereby **GRANTED**.

This application became abandoned December 23, 2006 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed September 22, 2006. Notice of Abandonment was mailed January 27, 2007.

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WENDY K. BUSKOP
BUSKOP LAW GROUP, P.C.
SUITE 500
1717 ST. JAMES PLACE
HOUSTON TX 77056

COPY MAILED

JUL 0 2 2004

OFFICE OF PETITIONS

In re Application of
Russell Earl Morris
Application No. 10/757,005
Filed: January 14, 2004
Attorney Docket No. 1001.18

ON PETITION

This is in response to the petition under 37 CFR 1.53, filed April 30, 2004, in response to the Notice of Incomplete Application mailed April 21, 2004, and requesting a filing date of January 14, 2004.

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

The instant application was deposited with the USPTO on January 14, 2004. On April 24, 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 April 30, 2004, the present petition was filed, accompanied by, *inter alia*, eight (8) sheets of drawings. Because the return postcard receipt date-stamped January 14, 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 14, 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 14, 2004** will be accorded this application. The petition fee in the amount of $130.00 will be credited to petitioner's deposit account no. 50-1313 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 14, 2004 using the four (4) sheets of drawings supplied April 30, 2004.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WENDY K. BUSKOP
BUSKOP LAW GROUP, P.C.
SUITE 500
1717 ST. JAMES PLACE
HOUSTON TX 77056

COPY MAILED

AUG 11 2004

OFFICE OF PETITIONS

In re Application of
Russell Earl Morris
Application No. 10/757,005
Filed: January 14, 2004
Attorney Docket No. 1001.18

ON PETITION

This is in response to the petition under 37 CFR 1.53, filed April 30, 2004, in response to the Notice of Incomplete Application mailed April 21, 2004, and requesting a filing date of January 14, 2004.

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

The instant application was deposited with the USPTO on January 14, 2004. On April 24, 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 April 30, 2004, the present petition was filed, accompanied by, *inter alia*, eight (8) sheets of drawings. Because the return postcard receipt date-stamped January 14, 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 14, 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 14, 2004** will be accorded this application. The petition fee in the amount of $130.00 will be credited to petitioner's deposit account no. 50-1313 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 14, 2004 using the four (4) sheets of drawings supplied April 30, 2004.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

GIBBONS, DEL DEO,
DOLAN, GRIFFINGER & VECCHIONE
1 RIVERFRONT PLAZA
NEWARK NJ 07102-5497

COPY MAILED
AUG 24 2006
OFFICE OF PETITIONS

In re Application of :
Walele et al. : DECISION ON PETITION
Application No. 10/757,008 :
Filed: January 14, 2004 :
Atty Docket No.FINETEX 3.0-047:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed May 19, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed September 20, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply timely filed and no extension of time obtained, the application became abandoned effective December 21, 2005. A courtesy Notice of Abandonment was mailed on April 5, 2006.

The petition includes the required reply, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required.

Receipt of the Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed May 19, 2006 is acknowledged and made of record.

Technology Center AU 1621 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed May 19, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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
10/757,008	01/14/2004	Ismail I. Walele	FINETEX 3.0-047

CONFIRMATION NO. 3310

OC000000020160297

28885
WEINGRAM & ASSOCIATES P.C.
P.O. BOX 927
MAYWOOD, NJ 07607

Date Mailed: 08/23/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/19/2006.

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

Gibbons, Del Deo
Dolan, Griffinger & Vecchione
1 Riverfront Plaza
Newark, NJ 07102-5497

Nancy Johnson

NANCY E JOHNSON
OPL (571) 272-3219

NEW ATTORNEY/AGENT COPY

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MAIL

JUN 0 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SNELL & WILMER LLP
1920 MAIN STREET
SUITE 1200
IRVINE, CA 92614-7230

In re Application of :
Samuel Eak Hua NGUY, et al. :
Application No. 10/757,019 : DECISION ON PETITION
Filed: January 14, 2004 : TO MAKE SPECIAL
For: **INITIATOR DEVICE CAPABLE OF TWO-WAY HALF-DUPLEX COMMUNICATION WITH MULTIPLE RECIPIENT DEVICES** :

This is a decision on the petition filed May 19, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Doris To
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of
Giovanni Mazzarolo
Application No. 10/757,022
Filed: January 14, 2004
Attorney Docket Number: SAIC 20.858
(10078800068

ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed April 25, 2007, to correct the name of the inventor due to error on the part of the applicant.

The petition is **GRANTED**.

Petitioner submits that the application and declaration as originally filed incorrectly identified the inventor as Gabrielle Mazzarolo which is a nickname used by the inventor instead of Giovanni Mazzarolo which is the inventor's legal name. Petitioner requests a correction of the file record and issuance of a corrected filing receipt. Petitioner submits a statement from the inventor and the assignee explaining how the error was occasioned and that the error was not with deceptive intent. Additionally, a supplemental oath or declaration properly identifying the inventor and properly signed by the inventor was submitted on June 15, 2007.

In view of the instant request, the following inventor name data has been changed to:

Giovanni Mazzarolo

A corrected filing receipt is included with this decision and this matter is being referred to Technology Center 3772 for further examination in due course.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/757,022	01/14/2004	3772	900	SAIC 20.858 (100788-00068	10	1

CONFIRMATION NO. 3279

26304
KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

CORRECTED FILING RECEIPT

OC000000025856926

Date Mailed: 09/17/2007

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

Applicant(s)

Giovanni Mazzarolo, Coste di Maser, ITALY;

Power of Attorney:

Aaron Karas–18923
Samson Helfgott–23072
Serle Mosoff–25900
Emma Shleifer–29734
Michael Markowitz–30659
Shahan Islam–32507
Harris Wolin–39432
Linda Chan–42400
Thomas Bean–44528
Brian Myers–46947

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP02/08463 07/30/2002

Foreign Applications

ITALY TV2001A000113 08/10/2001

If Required, Foreign Filing License Granted: 04/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/757,022

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Freely jointed arrangement for protecting the back against bumps

Preliminary Class

602

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

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

NOT GRANTED

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

United States
Patent And
Trademark Office

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

PETITION DECISION

05/24/04

Alexander C. Johnson, Jr.
Marger, Johnson & McCollom, P.C.
1030 S. W. Morrison Street
Portland, OR 97205

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/757028 received on 05/17/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

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JUL 17 2006

OFFICE OF PETITIONS

In re Application of :
Shanqi Zhao, et al. :
Application No. 10/757,028 : ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. 1138-92 :

This is a decision in response to the petition, filed March 6, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED** because it is unsigned.

37 CFR 1.33(b) states that:

Amendments and other papers filed in the application must be signed by:

(1) An attorney or agent of record appointed in compliance with §1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of §1.34(a);

(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;

(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or

(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

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

The petition lacks the unintentional delay statement noted in item (3).

This decision is made without prejudice to reconsideration. However, any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" and the omissions noted above.

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

---

[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.

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DEC 20 2006

OFFICE OF PETITIONS

MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

In re Application of
Shanqi Zhao, et al.
Application No. 10/757,028
Filed: January 13, 2004
Attorney Docket No. 1138-92

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 19, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before March 2, 2006. A Notice of Abandonment was mailed on June 23, 2006. On March 6, 2006 a petition under 37 CFR 1.137(b) was filed; however, the petition was subsequently dismissed in a decision mailed July 17, 2006. In response, on July 19, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[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. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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PAUL S. MADAN
MADAN MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057-1130

COPY MAILED
OCT 1 0 2006
OFFICE OF PETITIONS

In re Application of :
Juergen S. Schoen et al :
Application No. 10/757,051 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No. 584-23131-USD :

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed February 8, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 9, 2006.

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

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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3/19/09

Patent No. :7428332B2
Ser. No. :10757055
Inventor(s) :Spaulding et al.
Issued : 9/23/08
Title : APPLYING AN ADJUSTED IMAGE ENHANCEMENT ALGORITHM TO A DIGITAL IMAGE
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 Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

PAMELA R. CROCKER
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 14 2004

In re Application of	:	
Michael James Pratt et al.	:	
Serial No. 10/757,062	:	DECISION ON PETITION
Filed: January 14, 2004	:	TO MAKE SPECIAL
For: LOAD BEARING SHOULDER FRAME ASSEMBLY	:	

Applicant's petition, filed April 26, 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.

E. Rollins-Cross, Director
Technology Center 3700

Michael F. Krieger
Kirton and McConkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-22-09

TO SPE OF : ART UNIT 1649

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/757077 Patent No.: 7491799

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

FOR IFW FILES: Should COFC 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)
~~**South Tower - 9A22**~~ 2800 S. Randolph St 9C 62D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
~~**703-308-9390 ext. 117**~~
(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: _____

SPE

1649
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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SEP 17 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

In re Application of
Robert Haussmann, et al.
Application No. 10/757,089
Filed: January 13, 2004
For: **FAST PLAY DVD**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 30, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

~~The petition under Manual of Patent Examination Procedure §708.02, VIII, must:~~
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition fails to meet requirement (4) above, insomuch as there is no description of the classes or subclasses that were searched. Furthermore, details of any text searches used absent a class/subclass search have not been provided. It is insufficient to state that a search was performed by a professional searcher. In addition, Applicant is required to provide a copy of each of the references most closely related. The petition references a "Go Video User's Guide". A copy of this reference is not of record.

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

Petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should include a complete description of the search method employed, such as classes and subclasses searched, text keyword search, etc.

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

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DONALD L. WENSKAY, ESQ.
C/O GREENBERG TRAURIG LLP
INTELLECTUAL PROPERTY DEPARTMENT
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Robert Haussmann, et al.
Application No. 10/757,089
Filed: January 13, 2004
For: FAST PLAY DVD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 30, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination, as supplemented in Applicants' request for reconsideration of October 14, 2004 and facsimile submission on December 7, 2004.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

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

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CAROL NOTTENBURG
814 32ND AVE 5
SEATTLE WA 98144

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OFFICE OF PETITIONS

In re Application of :
Wenzl :
Application No. 10/757,093 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No. 415 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2006 (certificate of mailing date May 4, 2006), to revive the above-identified application.

This application became abandoned for failure to timely submit corrected drawings within three (3) months of the mailing of the Notice of Allowability, mailed November 2, 2005. Accordingly, this application became abandoned on February 3, 2006. A Notice of Abandonment was mailed on March 28, 2006.

Applicant has submitted a proper reply in the form of corrected drawings, an acceptable statement of the unintentional nature of the delay in responding to the November 2, 2005 Notice of Allowability, 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

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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
10/757,123	01/14/2004	1762	788	13DV-14289 (07783-0168)	6	21	2

CONFIRMATION NO. 3822

CORRECTED FILING RECEIPT

OC000000013272040

31450
MCNEES WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-5300

Date Mailed: 07/20/2004

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

Applicant(s)

William A. Lenkner, Mattoon, IL;
William Randolph Stowell, Rising Sun, IN;
Daniel Peter Ivkovich JR., Fairfield, OH;
Andrew Jay Skoog, West Chester, OH;
John Frederick Ackerman, Laramie, WY;
John J. Campbell, West Chester, OH;

Assignment For Published Patent Application

General Electric Company, Schenectady, NY;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/19/2004

Projected Publication Date: 07/14/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method to manufacture spectral pigment

Preliminary Class

427

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

GRANTED

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

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

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

NOT GRANTED

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

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Akerman Senterfitt
P.O. Box 3188
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OFFICE OF PETITIONS

In re Application of :

Andrew A. Gubkin et al. :
Application No. 10/757,176 : DECISION ON PETITION
Filed: January 14, 2004 : TO WITHDRAW
Attorney Docket No. 7644-3 : 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 8, 2006.

The request is **APPROVED**.

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

The request was signed by Neil R. Jetter on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

The application became abandoned for failure to timely respond to the Non-Final Office action mailed September 11, 2006.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Andrew A. Gubkin**
Sihizsky Tzakt, 37A, 30
Yekaterinburg, 620100
Russia Federation

cc: **Splinex Technology Inc.**
500 West Cyprus Creek Road
Suite 100
Ft. Lauderdale, FL 33309

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/757,176	01/14/2004	Andrew A. Gubkin	7644-3

CONFIRMATION NO. 4163

OC000000023906200

30448
AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

Date Mailed: 05/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/08/2006.

- 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.

Debbi S. Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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West Palm Beach, FL 33402-3188

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OFFICE OF PETITIONS

In re Application of

Andrew A. Gubkin et al.
Application No. 10/757,176
Filed: January 14, 2004
Attorney Docket No. 7644-3

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 8, 2006.

The request is **APPROVED**.

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

The request was signed by Neil R. Jetter on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

The application became abandoned for failure to timely respond to the Non-Final Office action mailed September 11, 2006.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

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MAY 25 2007

OFFICE OF PETITIONS

cc: **Andrew A. Gubkin**
Sihizsky Tzakt, 37A, 30
Yekaterinburg, 620100
Russia Federation

cc: **Splinex Technology Inc.**
500 West Cyprus Creek Road
Suite 100
Ft. Lauderdale, FL 33309

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BEVER, HOFFMAN & HARMS, LLP
2099 GATEWAY PLACE
SUITE 320
SAN JOSE CA 95110

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DEC 15 2006

OFFICE OF PETITIONS

In re Application of :
Tsu-Jae King et al :
Application No. 10/757,245 : DECISION DISMISSING PETITION
Filed:January 14, 2004 : UNDER 37 CFR 3.81(b)
Attorney Docket No. PROG2000-1C2 :

This is a decision on the petition, filed August 7, 2006, 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**.

Petitioner states that the correct assignee's name is **PROGRESSANT TECHNOLOGIES, INC.** and that an incorrect assignee's name was unintentionally included on Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee.

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 instant request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by

[1] *See* Official Gazette of June 22, 2004

3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to **PROGRESSANT TECHNOLOGIES, INC.** 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 **PROGRESSANT TECHNOLOGIES, INC.** 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 PROGRESSANT TECHNOLOGIES, INC., as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant 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 the instant request, as 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 the undersigned at (571) 272-3208. 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 concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Robert O. Blinn
P.O. Box 75144
Wichita KS 67275-0144

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OFFICE OF PETITIONS

In re Application of
Stephen Patrick Finch
Application No. 10/757,246
Filed: January 14, 2004
Attorney Docket Number: 3018W
Title: Method For Extracting Gluten

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(b), filed June 8, 2004.

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

The above-identified application was filed on January 14, 2004, without an executed oath or declaration, and naming Stephen Patrick Finch as sole inventor. Accordingly, on April 20, 2004, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition, the surcharge for late filing of the declaration, and a declaration.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to provide item (2).

As to item (2), Although a declaration which contains the non-signing inventor's signature block and was executed by David Vander Griend, President of ICM was presented with the petition, the title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b). It is not sufficient to reference an appendix.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

Charlema R. Grant
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

Robert O. Blinn
P.O. Box 75144
Wichita KS 67275-0144

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OCT 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Stephen Patrick Finch :
Application No.10/757,246 : DECISION ACCORDING STATUS
Filed: January 14, 2004 : UNDER 37 C.F.R. §1.47(b)
Attorney Docket Number: 3018W :
Title of Invention: Method for Extracting Gluten :

This is in response to the renewed petition for status under 37 C.F.R. §1.47(b), filed August 30, 2004.

The petition is **GRANTED**.

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventor has refused to sign the declaration. This declaration has been reviewed and is found in compliance with 1.63 and 1.64. Applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the petition. The assignment document establishes the applicant's proprietary interest in the application.

This application is hereby accorded Rule 1.47(b) status.

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

The application file is being forwarded to the Office of Initial Patent Examination for

[1] A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

processing.

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

Charlema R. Grant

Petitions Attorney

Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MYERS BIGEL SIBLEY & SAJOVEC, P.A
PO BOX 37428
RALEIGH NC 27627

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OCT 1 4 2008

OFFICE OF PETITIONS

In re Application of:
HOMILLER, Daniel P.
Application No.: 10/757,247
Filed: January 14, 2004
Attorney Docket No.: 9314-61

DECISION APPROVING
WITHDRAWAL OF ATTORNEY

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

The Request is **APPROVED**.

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

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

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 27 2010

OFFICE OF PETITIONS

PORTER WRIGHT MORRIS & ARTHUR LLP
INTELLECTUAL PROPERTY GROUP
41 SOUTH HIGH STREET
28TH FLOOR
COLUMBUS OH 43215

In re Application of :
He, et al. :
Application No. 10/757,302 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No. 3994994-148069 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed October 16, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment, mailed July 11, 2008. This Notice set an extendable period for reply of one month. No reply having been received, the application became abandoned on August 12, 2008. The Office mailed a Notice of Abandonment on February 9, 2009.

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

The application is being forwarded to Group Art Unit 1792 for consideration of the Amendment, filed October 16, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT G. LEV
4766 MICHIGAN BOULEVARD
YOUNGSTOWN, OH 44505

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APR 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Dominic Cerrato :
Application No. 10/757,320 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No. 0081-001(c) :

This is a decision on the petition under 37 CFR 1.137(b), filed March 11, 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 19, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 20, 2004. A Notice of Abandonment was mailed on January 13, 2005.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

AUG 15 2005

In re Application of :
YASUO SHIMIZU et al :NOTICE OF WITHDRAWAL
Serial No. 10/757,328 : FROM ISSUE
Filed: 01/13/2004 : UNDER 37 CFR 1.313(b)
For: ROTATIONAL TORQUE DETECTION MECHANISM AND POWER STEERING APPARATUS

The above-identified application is hereby withdrawn from issue due to unpatentability of one or more claims. See 37 CFR 1.313(b)(3).

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 Lesley Morris at (571) 272-6651.

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

Robert Oberleitner, Director
Technology Center 3600

Merchant & Gould, P.C
P.O. Box 2903
Minneapolis, MN 55402-0903

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

COPY MAILED

NOV 15 2006

OFFICE OF PETITIONS

In re Application of :
Donald J. Merkley, et al. :
Application No. 10757,330 : DECISION ON PETITION
Filed: January 13, 2004 : TO WITHDRAW
Attorney Docket No. HARD1.017DV1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed August 15, 2006.

The request is **APPROVED**.

A review of the file record indicates that Knobbe, Martens, Olson & Bear, LLP: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Knobbe, Martens, Olson & Bear, LLP has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request 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) the intervening assignee of the entire interest. All future communications from the Office will be directed to the first named signing inventor under 37 C.F.R. §3.71 at the first copied address below until otherwise properly notified by the applicant.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: DONALD J. MERKLEY
5054 KLUSMAN AVENUE
ALTA LOMA. CA 91737

cc: GARDERE WYNNE SEWELL LLP
3000 THANKSGIVING TOWER
1601 ELM STREET
DALLAS, TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/757,330	01/13/2004	Donald J. Merkley	HARD1.017DV1

CONFIRMATION NO. 3467

OC000000021227388

OC000000021227388

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

Date Mailed: 11/15/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/15/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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AUG 3 0 2007

OFFICE OF PETITIONS

BUCHANAN INGERSOLL & ROONEY PC
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of
Robert A. Ashworth
Application No. 10/757,331
Filed: January 14, 2004
Attorney Docket No. 040020

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 25, 2007.

The request is **APPROVED**.

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

The request was signed by Michael L. Dever on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ROBERT A. ASHWORTH
2663 TANGLEWOOD DRIVE
WOOSTER, OH. 44691

cc: ANDREW HAMILTON
CLEARSTACK COMBUSTION CORPORATION
PO BOX 13112
SPRINGFIELD, IL 62791

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/757,331	01/14/2004	Robert A. Ashworth	040020

CONFIRMATION NO. 3466

23464
BUCHANAN INGERSOLL & ROONEY PC
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

OC000000025611908

Date Mailed: 08/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/25/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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BAKER BOTTS LLP
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

COPY MAILED

NOV 17 2004

OFFICE OF PETITIONS

In re Application of :
Mohammed N. Islam :
Application No. 10/757,341 : DECISION GRANTING FILING
Filed: July 13, 2004 : DATE OF JULY 13, 2004
Attorney Docket No. 074036.0132 :

This is a decision on the petition filed July 13, 2004, which is being treated under 37 CFR 1.182, requesting that the above-identified application be accorded a filing date of July 13, 2004.

The petition is **granted**.

The application was deposited on January 13, 2004. However, on May 14, 2004, the Office of Initial Patent Examination Division mailed a "Notice of Omitted Items," stating that Figure 7 was omitted from the application on filing.

In response, on July 13, 2004, the instant petition and a copy of Figure 7 as described in the specification was submitted. Additionally, applicant did confirm that Figure 7 was not filed with the original application and requested that the above-identified application be accorded a filing date of July 13, 2004.

This matter is being referred to the Office of Initial Patent Examination Division for processing with a filing date of **July 13, 2004**, and for an indication that seven (7) sheets of drawings are now present for the instant application and for mailing of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (571) 272-3208.

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

RECEIVED

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BY:

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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
10/757,345	01/05/2004 01/14/2004	1623	709	HYB-018US1	30	56	3

CONFIRMATION NO. 3490

Joseph C. Zucchero
Keown & Associates
Suite 1200
500 West Cummings Park
Woburn, MA 01801

OIPE JC102 APR 22 2004 PATENT & TRADEMARK OFFICE

FILING RECEIPT

OC000000012163241

Date Mailed: 03/23/2004

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

Applicant(s)

Sudhir Agrawal, Shrewsbury, MA;
Lakshmi Bhagat, Brookline, MA;
Dong Yu, Westboro, MA;
Ekambar R. Kandimalla, Southboro, MA;

Assignment For Published Patent Application

Hybridon, Inc.;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/440,587 01/16/2003

Foreign Applications

If Required, Foreign Filing License Granted: 03/22/2004

Projected Publication Date: To Be Determined - pending completion of Sequence Disclosures

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Modulation of immunostimulatory properties of oligonucleotide-based compounds by utilizing modified immunostimulatory dinucleotides

Preliminary Class

514

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).

OIPE
APR 22 2004
PATENT & TRADEMARK OFFICE
KC102

PTO/SB/21 (08-03)
Approved for use through 08/30/2003. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/757,345
Filing Date	January 14, 2004
First Named Inventor	Agrawal et al.
Art Unit	1623
Examiner Name	NA
Attorney Docket Number	HYB-018US1

Total Number of Pages in This Submission: 4

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
- ☐ After Allowance communication to Technology Center (TC)
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☑ Other Enclosure(s) (please Identify below):

Remarks

* Request to Correct Filing Receipt
* Copy of Filing Receipt
* Postcard

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Wayne A. Keown, Ph.D. (Reg. No. 33,923)
Signature	W. A. K
Date	4/20/04

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Laura Labier		
Signature	Laura Labier	Date	4/20/04

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

OIPE JC102
APR 22 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	**Agrawal et al.**	)
		)
Serial No.:	**10/757,345**	) **Examiner: NA**
		)
Filed:	**January 14, 2004**	)
		) **Group Art Unit: 1623**
Entitled: Modulation of Immunostimulatory Properties of Oligonucleotide-Based Compounds by Utilizing Modified Immunostimulatory Dinucleotides		)
		)
Attorney Docket No.: HYB-018US1 (1006/019)		)

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

REQUEST FOR CORRECTED FILING RECEIPT

Sir:

Attached is a copy of the official Filing Receipt for the above-identified application. The filing date is incorrect.

The attached Filing Receipt shows the corrections marked in red ink for your convenience. Please issue a new Corrected Filing Receipt.

Respectfully submitted,

Date: 4/20/04

By: _____
Wayne A. Keown, Ph.D.
Reg. No. 33,923

Keown & Associates
500 West Cummings Park
Suite 1200
Woburn, MA 01801
781-938-1805
781-938-4777 (Fax)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DUANE MORRIS LLP
Suite 700
1667 K Street, N.W.
Washington, DC 20006

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AUG 2 2 2006
OFFICE OF PETITIONS

In re Patent No. 6,949,851
Application No. 10/757,409
Filing Date: January 15, 2004
Issue Date: September 27, 2005
Attorney Docket No. BOE01 047

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.182, filed June 21, 2006, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted.**

The file record discloses that the instant application matured into U.S. Patent No. 6,949,851 on September 27, 2005.

In view of the facts set forth in the petition, it is concluded that the patent was never received at the correspondence address of record. The Publishing Division is directed to issue duplicate Letters of Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Krystal Paige at (703) 308-9250, extension 139.

A copy of this decision is being forwarded to the Publishing Division for issuance of a duplicate Letter of Patent.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Krystal Paige, P/OPPD/ST 8C32, (Fax 571-273-9756)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

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

Mail Date: 04/21/2010

Applicant	: Zvi Nitzan	: DECISION ON REQUEST FOR
Patent Number	: 7643874	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/757,414	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1666** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/18/2010

Applicant : Zvi Nitzan
Patent Number : 7643874
Issue Date : 01/05/2010
Application No: 10/757,414
Filed : 01/15/2004

: 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 **1694** 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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Mailed: 8/25/06

rld
Paper Number _____

In re application of	:	
Ohnishi et al.	:	DECISION ON
Serial No. 10/757,417	:	PETITION
Filed: January 15, 2004	:	
For: FIBER BOARD	:	

This is a response to the PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW THE HOLDING OF ABANDONMENT, filed October 19, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed August 26, 2005, be withdrawn since the applicant did not receive the Notice of Allowance and Notice of Allowance and Fee(s) Due letter mailed March 14, 2005.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicant or any authorized representative of the applicant did not receive the Office letter mailed August 26, 2005. The evidence provided includes a statement by the petitioner that the Office letter mailed August 26, 2005 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter mailed August 26, 2005 was not received. Also provided is a copy of the attorney's application docket records where the Office letter mailed August 26, 2005 would have been posted had it been timely received.

As evidenced by the record the Notice of Allowability and Notice of Allowance and Fee(s) Due letter were sent to the wrong address. The proper address shall be entered and made of record in PALM prior to any further communication to the applicant.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt re-mailing of the Notice of Allowance and Notice of Allowance and Fee(s) Due letter originally mailed March 14, 2005 and restarting of the period of response from the re-mail date thereof.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Birch, Stewart, Kolasch & Birch, LLP
PO Box 747
Falls Church, VA 22040-0747

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HUMAN GENOME SCIENCES INC
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

COPY MAILED

JUN 21 2005

OFFICE OF PETITIONS

Applicant: Jonak et al.
Appl. No.: 10/757,450
Filing Date: January 15, 2004
Title: NOVEL INTEGRIN LIGAND ITGL-TSP
Attorney Docket No.: PF459C2
Pub. No.: US 2004/0175794 A1
Pub. Date: September 9, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on September 21, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

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JUL 25 2006

OFFICE OF PETITIONS

Applicant: Jonak et al.
Appl. No.: 10/757,450
Filing Date: January 5, 2004
Title: NOVEL INTEGRIN LIGAND ITGL-TSP
Attorney Docket No.: PF459C2
Pub. No.: US 2005/0208618 A9
Pub. Date: September 22, 2005

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

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in claim 16, clause (b), last line, wherein "which were not contacted for ITGL-TSP polypeptide activity" is misprinted as "which were not contacted or ITGL-TSP polypeptide activity".

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 error noted by requestor wherein "which were not contacted for ITGL-TSP polypeptide activity" is misprinted as "which were not contacted or ITGL-TSP polypeptide activity" is an Office error but the mistake is not a material error under 37 CFR 1.221(b). The error is a typographical error, which is clearly understandable to one of ordinary skill in the art in reading the specification, as the error occurs in a description of the figures. The mistake is a minor typographical, which does not affect the understanding of the dependent claim. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application

[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).

publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The error may have been due to the quality of the text in the application. The text in the application is small and not clearly legible, which makes it difficult to read and difficult to electronically reproduce. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52. Patent application publications with errors, which are due to the legibility of the text in the application will not be corrected by corrected publication under 37 CFR 1.221(b).

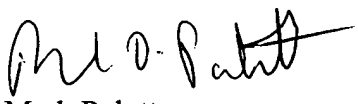
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the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

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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

Mail Date: 06/14/2010

Applicant	: Shunpei Yamazaki	: DECISION ON REQUEST FOR
Patent Number	: 7609358	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/757,459	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **68** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OCT 0 1 2008

OFFICE OF PETITIONS

In re Patent No. 7,373,184	:	LETTER REGARDING
Yuuhei Kurono	:	PATENT TERM ADJUSTMENT
Issue Date: May 13, 2008	:	and
Application No. 10/757,522	:	NOTICE OF INTENT TO ISSUE
Filed: January 15, 2004	:	CERTIFICATE OF CORRECTION
Atty Docket No. 04329.3221	:	

This is in response to the "DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT," filed July 14, 2008. Pursuant to their duty of candor and good faith to the Office, patentees request review of the patent term adjustment indicated on the patent.

The request for review of the patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of five hundred forty-four **(544)** days.

On May 13, 2008, the application matured into U.S. Patent No. 7,373,184, with a revised patent term adjustment of 598 days. Patentees point out that a response was filed on November 13, 2007, in response to a final Office action dated June 20, 2007.

A review of the record reveals that in response to the Office action mailed June 20, 2007, patentees did not file an RCE until October 19, 2007, three months and 29 days later. As such, a period of reduction of 29 days should have been entered pursuant to 37 CFR 1.704(b).

Moreover, there was an omission in the RCE and amendment filed October 19, 2007 (See Notice of Non-compliant Amendment mailed October 26, 2007). Patentees filed the response correcting this omission on November 13, 2007. As such a period of reduction of 25 days should have been entered pursuant to 37 CFR 1.704(c)(7), (counting the number of days beginning on October 20, 2007 and ending on November 13, 2007).

As such, the patent should have issued with a revised determination of the patent term adjustment of five hundred forty-four (544) days.

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 fee under 37 CFR 1.18(e). The Office thanks Patentees for their good faith and candor in bringing this to the attention of the Office.

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 forty-four **(544)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,373,184 B2

DATED : **May 30, 2008** **DRAFT**

INVENTOR(S) : Kurono

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 598 days

Delete the phrase "by 598 days" and insert – by 544 days--

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BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Horwitz, et al. :
Application No. 10/757,590 : ON
Filed: January 15, 2004 : PETITION
Attorney Docket No. 032425-001 :
For: METHOD FOR PRODUCING NOVEL DNA SEQUENCES WITH BIOLOGICAL ACTIVITY

This is a decision on the petition filed December 15, 2004, to accord the above-identified application a filing date of January 15, 2004 on two grounds. First, petitioners assert incorporation by reference as the means by which the drawings from application no. 09/132,231 should be considered part of the present application. This type of petition is treated under 37 CFR 1.53(e). Second, petitioners request that pursuant to 37 CFR 1.57(a), Figures 1-6 of the parent application be added to the present application because the present application contains a priority/benefit claim to the parent application.

The petition under 37 CFR 1.57(a) is **DISMISSED AS MOOT**.

The petiiton under 37 CFR 1.53(e) is **GRANTED**.

The petition under 37 CFR 1.57(a) is **dismissed as moot** because the provisions of 37 CFR 1.57(a) only apply to applications filed on or after September 21, 2004. This application was filed on January 15, 2004. No fee has been charged in connection with this petition.

On January 15, 2004, the application was deposited.

On October 18, 2004, the Office of Initial Patent Examination mailed a Notice stating that drawings were missing and that a filing date would be accorded upon receipt of the missing items.

In response, the present petition alleges that drawings were inadvertently omitted. However, the Application Transmittal letter incorporated by reference the entire disclosure of the parent application, no. 09/132,231.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the drawings were present in the Office on January 15, 2004, albeit in the file of another application, i.e., application No. 09/132,231. Therefore, on petition, the application may be accorded the requested filing date of January 15, 2004.

In view of the above, the petition under 37 CFR 1.53(e) is **granted**. The copy of the drawings from application no. 09/132,231 submitted with the petition will be used for examination purposes. [1]

The petition fee of $400 is required since the petition was required to accord the application the requested filing date. The fee will be charged to application no. 02-4800.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 15, 2004, using the application papers filed on January 15, 2004 and the copy of the drawings from application no. 09/132,231 filed on December 15, 2004.[2]

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

E. Shirene Willis

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

[1] The Office assumes that the drawings are a true and exact copy of the drawings submitted in the parent application. If this is not the case, then petitioner must notify the Office. Of course, the primary examiner is expected to compare the instant drawings to the drawings in the parent application in order to verify that the drawings are, in fact, part of the prior application.

[2] The formal drawings from grandparent application no. 08/316,415 will not be processed.

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Klotzer Patents
#210
4579 Laclede Ave.
Saint Louis MO 63108

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DEC 18 2008

In re Application of :
Klotzer : DECISION ON APPLICATION
Application No. 10/757,615 : FOR PATENT TERM ADJUSTMENT
Filed: January 13, 2004 :
Atty. Dkt. No.: 16663/042001 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed July 10, 2008. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **DISMISSED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed April 10, 2008, indicated a patent term adjustment (PTA) to date of zero days. The instant application for PTA was timely filed July 10, 2008, at the time of submission of the issue fee payment.

The correct PTA at the time of the allowance is zero days, as indicated on the Determination of Patent Term Adjustment mailed April 10, 2008.

Applicant disputes the reduction of 409 days accorded in connection with the reply (amendment), filed December 20, 2007.

A non-final Office action was mailed June 6, 2006. A reply was submitted November 6, 2006. The reply was non-compliant, as indicated by the Notice of Non-Compliant Amendment mailed November 20, 2007. A reply correcting the omissions in the previous reply was submitted December 20, 2007. Accordingly, the adjustment is properly reduced 409 days in accordance with 37 CFR 1.704(c)(7).

Applicant argues that the delay was caused by the Office rather than applicant. Applicant argues that applicant should not be charged with the reduction of 409 days because the Office delayed in mailing the Notice of Non-Compliant Amendment.

Applicant's arguments have been carefully considered, but are not found convincing. Submission of the reply was necessitated by applicant who submitted an improper amendment on November 6, 2006. Applicant could have avoided the delay caused by the submission of the reply by ensuring that the amendment submitted November 6, 2006 was properly submitted within the meaning of 37 CFR 1.33(b). The fact that the Notice of Non-Compliant Amendment was mailed November 20, 2007 does not negate the fact that applicant was the requisite cause of the delay at issue.

Accordingly, at the time of allowance, the application is entitled to an adjustment of zero days, as indicated in the Determination of Patent Term Adjustment mailed April 10, 2008.

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).

Receipt is hereby acknowledged of the required patent term adjustment application fee of $200.00. The application fee will not be refunded as submission of the application fee is a prerequisite prior to consideration on the merits of 37 CFR 1.705.

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

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 Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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Paper No. None

Waters & Morse, P.C.
Ste. 400
125 Ottawa Ave., N.W.
Grand Rapids MI 49503

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SEP 2 4 2004

OFFICE OF PETITIONS

In re Application of
James O. Kelley et al.
Application No. 10/757,663
Filed: January 13, 2004
Attorney Docket No. sf 53.2-3
Title: MODULAR FURNITURE SYSTEM

DECISION ON PETITION UNDER
37 C.F.R. §1.53

This is a decision on the petition filed June 1, 2004, under 37 C.F.R. 1.53, requesting that the above-identified application be accorded a filing date of January 13, 2004, with Figure 43 submitted with the instant petition considered as part of the original disclosure of the application.

The application was deposited on January 13, 2004. However, on April 21, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (notice)," stating that the application had been accorded a filing date, and advising applicants that the application appeared to have been deposited without Figure 43. With the instant petition, Petitioner has submitted Figure 43 along with authorization to charge the petition fee to a Deposit Account.

Petitioner states that although Figure 43 was omitted on filing, it was constructively included through incorporation by reference.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. It is noted that the application transmittal letter identifies this application as a continuation of a prior application, but fails to list the serial number of the parent. The specification identifies this application as a continuation of application 08/840,960 and sets forth that the disclosure of the parent is incorporated by reference. Section 201.06(c) of the MPEP sets forth, in part:

an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the

prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

(Emphasis added).

If petitioner desires for the examiner to consider the missing figure which was not submitted as part of the original disclosure, then Petitioner may submit that page via an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

For these reasons, the petition under 37 CFR 1.53(b) is dismissed.

Figure 43, submitted with the instant petition, will be not entered. Should petitioner wish for this page to be entered, an amendment must be filed. The original application papers will include only those application papers present on the date of deposit. The petition fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

Unfortunately, the Deposit Account Petitioner has given to the Office is not an active account. As such, the Application will not be returned to the Office of Initial Patent Examination for further processing.

Petitioner must submit a response to this decision, along with the required petition fee 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. 1.53". This is not a final agency action within the meaning of 5 U.S.C 704.

Failure to submit the petition fee with this response in the time frame indicated above will result in the abandonment of this application.

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].

---

1 See MPEP 608.02(h) and 608.04.

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.

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
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No. None

Waters & Morse, P.C.
Ste. 400
125 Ottawa Ave., N.W.
Grand Rapids MI 49503

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OFFICE OF PETITIONS

In re Application of
James O. Kelley et al.
Application No. 10/757,663
Filed: January 13, 2004
Attorney Docket No. sf 53.2-3
Title: MODULAR FURNITURE SYSTEM

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.53

This is a decision on the renewed petition filed October 18, 2004 under 37 C.F.R. 1.53, requesting that the above-identified application be accorded a filing date of January 13, 2004, with Figure 43 submitted with the instant petition considered as part of the original disclosure of the application.

The application was deposited on January 13, 2004. However, on April 21, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (notice)," stating that the application had been accorded a filing date, and advising applicants that the application appeared to have been deposited without Figure 43. With the instant petition, Petitioner has submitted Figure 43 along with authorization to charge the petition fee to a Deposit Account.

The original petition was submitted on June 1, 2004. A decision was mailed on September 24, 2004, which is hereby **VACATED**.

Petitioner states that although Figure 43 was omitted on filing, it was constructively included through incorporation by reference.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. It is noted that the application transmittal letter identifies this application as a continuation of a prior application, but fails to list the serial number of the parent. The specification identifies this application as a continuation of application 08/840,960 and sets forth that the disclosure of the parent is incorporated by reference. Section 201.06(c) of the MPEP sets forth, in part:

an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

(Emphasis added).

With the renewed petition, Petitioner has submitted the missing figure via an amendment.

As such, the renewed petition under 37 CFR 1.53(b) is **DISMISSED AS MOOT**.

The petition fee of $130.00 has not been charged to Petitioner's Deposit Account.

The application file will be forwarded to the Office of Initial Patent Examination (OIPE) for further processing. OIPE will then forward the application to Technology Center 3600 for consideration of the amendment filed concurrently with this renewed petition[1].

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

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

1 The Examiner will review the amendment for new matter. See MPEP 608.02(h) and 608.04.

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Paper No. None

KING & SPALDING LLP
191 PEACHTREE STREET, N.E.
ATLANTA GA 30303-1763

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OFFICE OF PETITIONS

In re Application of
David D. Weingarten and James A. Sikorski
Application No. 10/757,664
Filed: January 13, 2004
Attorney Docket No. ATH 225
Title: PROCESS OF PREPARING ESTERS AND ETHERS OF PROBUCOL AND DERIVATIVES THEREOF

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.182, filed December 15, 2004, to change the order of the names of the inventors. Petitioner submitted an Application Data Sheet (ADS) in conjunction with this petition. On February 7, 2005, Petitioner submitted a supplemental ADS, along with an explanation that the original ADS submitted along with the instant petition contains a typographical error.

The petition is **GRANTED**.

The petition fee of $400 has been charged to Petitioner's Deposit Account, as authorized in the petition. The order of the names of the inventors has been changed as follows:

David D. Weingarten
James A. Sikorski

A filing receipt reflecting this change is enclosed.

After this decision is mailed, the application file will be forwarded to Technology Center 1600 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

Encl. Corrected Filing Receipt

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

In re Application of :
Asif KHAN, et al. :
Application No. 10/757,711 : DECISION ON PETITION
Filed: January 14, 2004 : TO MAKE SPECIAL
For: :

METHOD AND APPARATUS FOR SHARED I/O IN A LOAD/STORE FABRIC

This is a decision on the petition filed October 14, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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

In re Application of: Pettey, et al.
Application No. 10/757,713
Filed: January 14, 2004
For: METHOD AND APPARATUS FOR SHARED I/O IN A LOAD/STORE FABRIC

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

This is a response to the petition filed October 21, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

The petition filed October 21, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), applicant must provide a detailed discussion of reference documents (for example, U. S. Patent 5,581,709 to Ito et al.) since applicant has deemed it as one of the most closely related references. As to U. S. Patent 5,581,709 to Ito et al., the Petitioner has merely provided a terse discussion as to how an IO host adapter within a host computer function for providing a transaction a host number when the transaction is issued to a shared IO device. However, the submission does not satisfy the requirement, as it does not provide a **detailed discussion** of the reference (with reference to Page Numbers or figures, for example) and it does not point out how the language of **each of the independent claims** are specifically distinguishable and patentable over the references. Petitioner should review all references cited in the Petition and ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. The statement that the reference shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

Petition to Make Special **DISMISSED**.

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

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

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

RP

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HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS, CO 80906

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OFFICE OF PETITIONS

In re Application of

Petty, et al. :

Application No. 10/757,713

: DECISION ON PETITION

Filed: January 14, 2004

:

Attorney Docket No. NEXTIO.0301

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 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 April 5, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. An extension of time within the third month was obtained on October 5, 2006. Accordingly, the application became abandoned on October 6, 2006.

The amendment filed October 10, 2006, is noted.

The application is being forwarded to Technology Center 2100, GAU 2111 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

In re Application of :
Asif KHAN, et al. :
Application No. 10/757,714 : DECISION ON PETITION
Filed: January 14, 2004 : TO MAKE SPECIAL
For: :
METHOD AND APPARATUS FOR SHARED I/O IN A LOAD/STORE FABRIC :

This is a decision on the petition filed October 21, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO, CA 92122

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OFFICE OF PETITIONS

In re Application of :
West, John Randall et al. :
Application No. 10/757,718 : DECISION ON PETITION
Filed: January 13, 2004 : TO WITHDRAW
Attorney Docket No. **07464-0004** : 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 23, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Heller Ehrman LLP has been revoked by the assignee of the patent application on September 02, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **GOODWIN PROCTER LLP**
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025-1105

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Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

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OFFICE OF PETITIONS

In re Patent No. 7,478,365	:	
West et al.	:	DECISION ON
Issue Date: January 13, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 10/757,718	:	OF
Filed: January 13, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. SYM 0004	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed March 5, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred eighty-five (384) days to six hundred seventy-four (674) days.

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

On January 13, 2009, the above-identified application matured into Patent No. 7,478,365 with a patent term adjustment of 384 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment to include a 290-day period of adjustment pursuant to 37 CFR 1.703(b). Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), of 290 days and the period of adjustment due to other examination delay, pursuant to 37 CFR 1.702(a), of 585 days.

The 290-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on January 13, 2004, and a request for continued examination (RCE) having been filed in this application on October 30, 2007, three years and 290 days later. Patentees assert that in addition to this 290-day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), totalling 585 days. This 585-day period is the sum of:

- a period of delay of 572 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1); and,
- a period of delay of 13 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2).

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 period of reduction of 201 days for applicant 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 (290 days) and the period of Examination Delay (585 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14 month examination delay and 4 month examination delay in responding to a reply. Accordingly, patentees submit that the total period of adjustment for Office delay is 875 days, which is the sum of the period of Three Year Delay (290 days) and the period of Examination Delay (585 days), reduced by the period of overlap (0 days).

As such, patentees assert entitlement to a patent term adjustment of 674 days (290 + 585 reduced by 0 overlap - 201 (applicant delay)).

The Office agrees that as of the filing of the RCE on October 30, 2007, the application was pending three years and 290 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 585 days is correct. At issue is whether patentees should accrue 290 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 a certain action within a specified time frame (or examination delay).

The Office contends that 290 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period

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

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C.

154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than three 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. Treating the relevant period as starting on January 13, 2007, the date that is three 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, September 15, 2003, as terminated by the filing of the RCE on October 30, 2007. 585 days of patent term adjustment were accorded prior to

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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).

the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. All of the 290 days for Office delay in issuing the patent overlap with the 585 days of Office delay. During that time, the issuance of the patent was delayed by 585 days, not 585 + 290 days. The Office took 14 months and 572 days to issue a first Office action. Additionally, the Office took 4 months and 13 days to respond to the reply filed June 3, 2008. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the initial 585 days of Office delay and the 201 days of applicant delay and the time allowed within the time frames for processing and examination, as of the filing date of the RCE, the application was pending three years and 290 days. The Office did not delay 585 days and then an additional 290 days. Accordingly, 585 days of patent term adjustment (not 585 and 290 days) was properly entered since the period of delay of 290 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 585 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 585 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 290 days over three years to the filing of the RCE.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

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

The Office will charge the $200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account as authorized. No additional fees are required.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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TIMOTHY J MARTIN PC
9250 WEST 5TH AVE
LAKEWOOD CO 80226

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OFFICE OF PETITIONS

In re Application of
Wayne R. Arden :
Application No. 10/757,730 : DECISION ON
Filed: January 13, 2004 : PETITION
Title: Apparatus for Supporting the Back :

This is in response to the petition to revive under 37 CFR 1.137(a), filed August 8, 2008.

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

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

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed July 16, 2007. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 17, 2007. A Notice of Abandonment was mailed on January 24, 2008.

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

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

With respect to requirement (3) above, Petitioner states that his counsel "closed his practice and abandoned all of his clients".

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). Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133. Haines v. Quigg, 673 F. Supp. at 317; 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).

Accordingly, the entire period of delay in the above-identified application can not be characterized as "unavoidable".

With respect to requirement (1), Petitioner has not submitted a reply to the July 16, 2007 Office action. A copy of that Office action is enclosed for petitioner's convenience.

Furthermore, petitioner has not submitted a Change of Correspondence Address. The Office will mail all correspondence to the above address of record, until such time as appropriate instructions are received to the contrary. A Change of Correspondence Address form is enclosed. A courtesy copy of this decision is being mailed to the address listed on the petition.

---

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

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is **not** precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

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

Enc: Change of Correspondence Address (1 page)
Privacy Act Statement (1 page)
Copy of July 16, 2007 Office action (9 pages)

cc: Wayne Arden
PO Box 16008
Golden CO 80402-6001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,730	01/13/2004	Wayne R. Arden	2017	4881

24264 7590 07/16/2007

MARTIN & HENSON, P.C.
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD, CO 80226

EXAMINER	
PATEL, TARLA R	

ART UNIT	PAPER NUMBER
3772	

MAIL DATE	DELIVERY MODE
07/16/2007	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.

HH

Office Action Summary	Application No.	Applicant(s)	
	10/757,730	ARDEN, WAYNE R.	
	Examiner	Art Unit	
	Tarla R. Patel	3772	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 May 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 May 2007* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Amendment to Drawing and Specification filed on 5/1/07 are acknowledged and approved.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

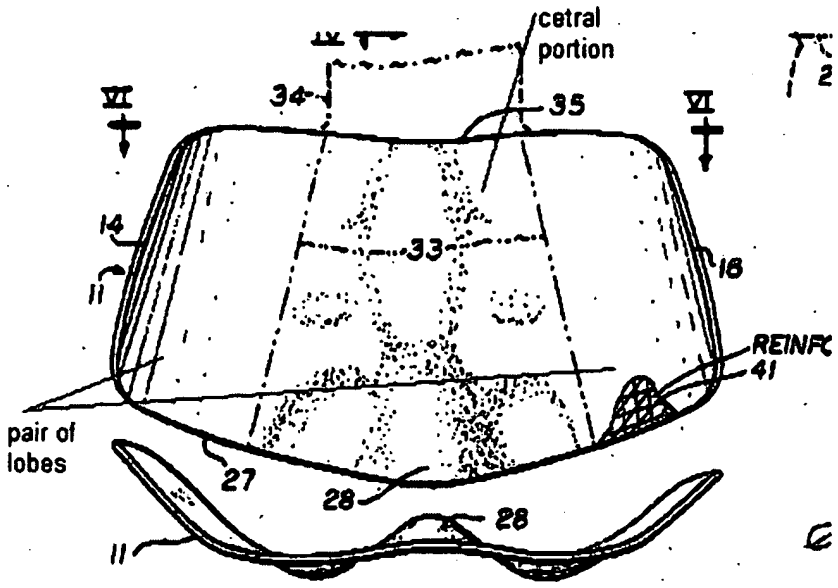
> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claim 1-3, 5-7,9-32 rejected under 35 U.S.C. 103(a) as being unpatentable over Swift (3,434,469) in view of Morrow (6,165,147).

Swift discloses a brace (10) adapted to mount externally of a person's torso in order to support/sheet the person's back, the brace comprises a support piece/sheath (11) including an elongated central portion (28) and a plurality of pairs of oppositely projecting lobe portions (14,16 and column 3 lines 26-44) extending laterally of said central portion, said lobe portions constructed of a stiff yet bendable material (column 4, lines 49-54), and a support band (10) sized and adapted to encircle the person's torso and operative to releasably secure said support piece alongside the person's

back when in a mounted state (see fig 1), said support band constructed of a flexible material (column 4 lines 14-18) and having opposite end portion provided with cooperative fasteners (18,19) whereby said end portions may be releasbly secured together in a fastened state.

With respect to claims 5-6,15-21 and 23-24 Swift discloses sleeves and pouches (13) directly connected. With respect to the limitation of the "sleeve" the examiner interpreted the pockets (13) as sleeves and pouches, since these pockets of Swift are made of flexible, breathable material and a pouch inherently includes an interior portion (inside of pocket, column 3 lines 1-25). With respect to the limitation of the "stretchable material" the examiner interpreted elastic fabric as flexible, breathable material to be made of any group of fabrics consist of non-stretchy fabrics and resilient stretchy fabrics that is required by claim 15. As required by claim 20 pouch and said end portions are formed of a common material (column 3 lines 1-25).



With respect to claim 25, Swift inherently discloses device sheath interior has a periphery contoured to the shape of said support piece (see fig 2).

With respect to claim 22, Swift inherently discloses said fasteners permit size adjustment of said band, since it made of elastic material it is able to stretch.

With respect to claims 7, Swift discloses said sleeves are in parallel spaced relation to one another (see fig 5).

With respect to claims 9 and 27, Swift discloses lobe portions of each said pair extend equidistantly of said central portion (see fig 5).

With respect to claims 10 and 28, Swift discloses said lobe portions being formed by notches located between adjacent ones of said lobe portions (14,16, see fig above).

With respect to claims 11 and 29, Swift discloses at least three pairs of lobe portions, there being a primary lobe portions (central) and two secondary lobe (side lobes) portions, one on either side of said primary pair of lobe portions.

With respect to claims 12 and 30, Swift discloses primary portion (central) is greater than secondary lobe portions (14,16) (see fig 5).

With respect to claims 13 and 31, Swift discloses central portion (see above) is wider than secondary lobe portions (14,16) (see fig 6).
However Swift does not discloses that the device is made of stiff yet bendable material and the pocket to be provided with a releasable pouch closure.
However Morrow teaches a lower back and hip support device having pouch with closure (20) and back support device made of plastic having degree of flexibility (column 3 lines 12-19). At the time invention was made, it would have been obvious to one having ordinary skill in to use the teaching of having pouch closure and plastic having flexibility to the device

of Swift, as taught by Morrow to better fit the device to user's back and close the pouch while in use to avoid slipping of the brace unit from the waistband.

3. Claims 4 and 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Swift and Morrow further in view of Petty-Saphon (5,737,774).

Swift and Morrow substantially discloses the invention as claimed, see rejection to claims 1-3, 5-7, 9-32 above; however, Swift and Morrow do not specifically disclose that said strips extend perpendicularly to central portion and strips of a different width than another strips.

However Petty-Saphon teaches a back support with strips (1) extending perpendicularly to central portion to reduce flexion or extension or simply to make the person feel comfortable and strips are different in width (see figs 1 and 2).

At the time of the invention, it would have been an obvious to one having ordinary skill in the art to modify the device of Swift and Morrow with the strips of Petty-Saphon (element 1) to better support the back brace. With respect to claim 8, the back brace with the strips are of a different width than another of said strips, it would have been obvious to one of

ordinary skill in the art to modify the strips of Swift, Morrow and Petty-Saphon, as a matter of design choice to make the strips of different width, since applicant has not disclosed that strips having same width solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with strips with different width.

Response to Arguments

4. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tarla R. Patel whose telephone number is 571-272-3143. The examiner can normally be reached on M-T 6-3.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TP

PATRICIA BIANCO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

7/9/07

PTO/SB/122 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

CHANGE OF CORRESPONDENCE ADDRESS
Application

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

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

Please change the Correspondence Address for the above-identified patent application to:

☐ The address associated with Customer Number: [ ]

OR

☐ Firm or Individual Name

Address

City	State	Zip

Country

Telephone	Email

This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

I am the:

☐ Applicant/Inventor

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

☐ Attorney or agent of record. Registration Number _____.

☐ Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number_____.

Signature	
Typed or Printed Name	
Date	Telephone

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

☐ *Total of _____forms are submitted.

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Angel Gerena
905 Emery St. - Apt. #2
Asbury Park NJ 07712

COPY MAILED

JUN 07 2004

OFFICE OF PETITIONS

In re Application of
Angel Gerena
Application No. 10/757,732
Filing Date: January 14, 2004
Title: BRACE 2000

DECISION ON PETITION
UNDER 37 C.F.R. §1.53

BACKGROUND

This is a decision on the petition filed May 25, 2004, requesting that the above-identified application be accorded a filing date of March 9, 2002.

Petitioner has telephoned the undersigned on numerous occasions, and has alleged that it has taken several attempts to deliver the instant petition to the undersigned. Upon receipt of the petition, it has become clear to the undersigned why the Office might have experienced such difficulty in delivering the submission.

The petition does not contain the application's serial number. Considering the large volume of communications the Office receives on a daily basis, Applicants must place their serial numbers on all communications in order for their submissions to be matched up with their files. On all future submissions to the Office that are pertinent to this file, Petitioner is strongly urged to place the identifier "10/757,732" in a prominent location.

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. § 1.53 is set forth in 37 C.F.R. §1.17(h) as being $130.00. There is no fee reduction for small entities. Petitioner has included a photocopy of the top portion of a money order that is addressed to the Office. Perhaps this was submitted to show that the petition fee was previously submitted in one of the mailings which were purportedly sent prior to May 25, 2004? No statement has been provided as to what purpose this photocopy is intended to serve.

The payment of the required petition fee is a prerequisite to the filing of a petition to revive under 37 C.F.R. §1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. 711.03(c)(III)(B)[1]

In view of the foregoing, this petition is **DISMISSED**.

Any response must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The renewed petition should include a cover letter entitled "Renewed Petition under 37 CFR 1.53."

The reply to this letter may be submitted by mail[2], hand-delivery[3], or facsimile[4].

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

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

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

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

Encl. Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004)

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[1] "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. §1.137 lacking the requisite petition fee."

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.

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

Angel Gerena
905 Emery St. - Apt. #2
Asbury Park NJ 07712

COPY MAILED

AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of
Angel Gerena
Application No. 10/757,732
Filing Date: January 14, 2004
Title: BRACE 2000

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

BACKGROUND

This is a decision on the renewed petition filed June 14, 2004, requesting that the above-identified application be accorded a filing date of March 9, 2002.

Petitioner has telephoned the undersigned on numerous occasions, and has alleged that it has taken several attempts to deliver the renewed petition to the undersigned. Upon receipt of the petition, it has become clear to the undersigned why the Office might have experienced such difficulty in delivering the submission.

The renewed petition does not contain the application's serial number. Considering the large volume of communications the Office receives on a daily basis, Applicants must place their serial numbers on all communications in order for their submissions to be matched up with their files. On all future submissions to the Office that are pertinent to this file, Petitioner is strongly urged to place the identifier "10/757,732" in a prominent location.

It is noted that this is not the first time that Petitioner has been advised of the importance of placing the serial number on his correspondence.

The original petition was submitted on May 25, 2004, and was dismissed via the mailing of a decision on June 7, 2004, for failure to include the petition fee.

With the instant petition, Petitioner submitted copies of the top portions of two U.S.P.S. money orders, copies of two U.S.P.S. Express Mail labels[1], and two copies of U.S.P.S. return receipts.

1 One of the labels bears the Express Mail label number EU036189303US, and bears a "date-in" of March 9, 2002.

On August 10, 2004, Petitioner submitted a one-month extension of time, and on August 13, 2004, the petition fee was submitted. As such, the original petition of May 25, 2004 can now be decided on the merits.

THE RELEVANT PORTION OF THE MPEP

37 C.F.R. § 1.10 Filing of correspondence by "Express Mail" sets forth, in part:

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

[48 FR 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 FR 4285, Jan. 31, 1983, paras. (a) & (c), 49 FR 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 67 FR 36099, May 23, 2002, effective June 24, 2002]

ANALYSIS

Petitioner has set forth that he has attempted to submit his application on numerous occasions, and has not been able to obtain a serial number until January 14, 2004.

Unfortunately, it does not appear that Petitioner has met the requirements of 37 C.F.R. §§1.10(e)(2), (3), and (4), in that a copy of the Express Mail mailing label was not included with the application, and the application does not have the Express Mail label number listed thereon. Typically, applicants will write the number on the Utility Application Transmittal sheet. The electronic file has been reviewed, and none of the sheets submitted on January 14, 2004 contain either a copy of the Express Mail label or the notation "EU036189303US." As such, while it is

clear that something was mailed to the Office on March 9, 2002, it is not possible for the undersigned to determine what the submission consisted of.

Therefore, this petition is **DISMISSED**.

Any response must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The renewed petition should include a cover letter entitled "Renewed Petition under 37 CFR 1.53." Petitioner will note that there is no fee involved in the submission of a renewed petition, so long as the response is submitted within the two-month timeframe.

The reply to this letter may be submitted by mail[2], hand-delivery[3], or facsimile[4].

Petitioner is reminded that a failure to place the application serial number on the second renewed petition will result in a delay of the processing of the same.

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

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

Encl. Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004)

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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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANTHONY ASQUITH
416 COLUMBIA STREET WEST - #28
WATERLOO ON N2T 2P5
CANADA

COPY MAILED

MAY 07 2004

OFFICE OF PETITIONS

In re Application of	:	
Shelp et al.	:	DECISION DISMISSING
Application No. 10/757,733	:	PETITION
Filed: 15 January, 2004	:	
Attorney Docket No. 616-76US	:	

This is a decision on the petition filed on 15 January, 2004, requesting that the above-identified application be accorded a filing date of 16 September, 2003.

The petition is **dismissed**.

Petitioners assert that the application was originally filed on 16 September, 2003, but was lost after receipt by the U.S. Patent and Trademark Office. Specifically, petitioners assert that the application was sent to the USPTO by Federal Express on 15 September, 2003. In support, petitioners have provided a copy of the Federal Express Air Waybill, a Federal Express delivery confirmation printout as well as a declaration by counsel's office manager, Karen M. Owens, and printout of a log entry purporting to show where the application was entered prior to deposit in Express Mail.

A review of the official file reveals no application papers filed on 16 September, 2003, are located therein. However, the file contains 17 pages of written description, 4 pages containing 12 claims, 4 sheets of drawings, 1 page of abstract, a declaration, and an Application Data Sheet, all filed on 15 January, 2004. At the outset, it is noted that had petitioners utilized an itemized return postcard in accordance with Section 503 of the Manual of Patent Examining Procedure (MPEP), petitioners could have avoided the predicament that has now occurred. 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 of the items listed thereon on the date stamped thereon by the USPTO. Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims and abstract) number of claims, number of sheets of drawings, number of pages of oath/declaration. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[1] In the absence of such a postcard, petitioners have provided no evidence that the application papers were filed on 16 September, 2003.

Furthermore, petitioners did not avail themselves of the Express Mail procedures prescribed by 37 CFR 1.10. Under 35 U.S.C. § 111, the filing date of an application is defined as the date the specification and drawings are filed in the U.S. Patent and Trademark Office. Under 35 U.S.C. § 21, the Commissioner may by rule prescribe that any paper or fee required to be filed in the U.S. Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service in Express Mail "Post Office to Addressee" Service but for postal service interruptions or emergencies designed by the Commissioner. However, petitioners concede that the application was not filed with the USPS, as such, petitioners assumed the risk that the application may not receive the desired filing date.

The Office also notes that Ms. Owens affidavit is not persuasive, as it was made almost four months after the events in question and recite personal remembrances of the preparation and filing of the application with the USPTO. The application does not appear to be unusual and it is not understood why the filing of this

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[1] MPEP 503.

particular application would stand out in such detail in the affiant's memory, particularly in view of the fact that affiant prepared and mailed similar papers to the USPTO on a routine, daily basis. More to the point, Ms. Owens states that she completed the mail log entry before the application papers were deposited with Federal Express. Assuming, *arguendo*, petitioners *had* used Express Mail service, the log book entry would not satisfy the requirements of 37 CFR 1.10(d) because the log book entry was not made after and within one day of deposit of the application papers with the USPS.

Lastly, with regard to the FedEx Delivery Confirmation facsimile showing that a delivery was signed for by "M.ASFAW", and delivered on 16 September, 2003, the Office cannot neither verify what papers were delivered with this shipment, nor confirm that this shipment contained the present application.

In summary, petitioners simply have not provided convincing evidence that the application papers were filed in the USPTO on 16 September, 2003, or any date prior to 15 January, 2004.

Accordingly, the petition is dismissed. As this petition was not necessitated by USPTO error, the petition fee will not be refunded.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

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

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

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW 02-05

ANTHONY ASQUITH & CO
#28 - 461 COLUMBIA STREET W.
WATERLOO ON N2T 2P5
CANADA

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Shelp et al.	:	
Application No. 10/757,733	:	DECISION DISMISSING
Filed: 15 January, 2004	:	PETITION AS MOOT
Attorney Docket No. 616-76US	:	

This is a decision in reference to the request for reconsideration, filed on 28 May, 2004, which is treated as a renewed petition under 37 CFR 1.53(e) requesting that the above identified application be accorded a filing date of 16 September, 2003.

The petition is **DISMISSED AS MOOT**.

On 15 January, 2004, an application transmittal sheet consisting of two pages, a specification consisting of 17 pages of written description, four (4) pages containing twelve claims, one (1) page of abstract, four (4) sheets of drawings, were filed, *inter alia*, along with a petition stating that the application had been filed with the USPTO on 16 September, 2003, via Federal Express, and requesting the same as the filing date.

The petition asserted that the application had been filed on 16 September, 2003, but was lost after receipt at the USPTO. The petition was dismissed on 7 May, 2004, because petitioners had not provided persuasive evidence that the application papers were filed on 16 September, 2003. Instead, the application was accorded a filing date of 15 January, 2004, the date that the application papers were received at the USPTO.

On 28 May, 2004, the present request for reconsideration was filed, arguing again that the application should be accorded a filing date of 16 September, 2003.

Petitioners assert that, notwithstanding the showing of record, the application is entitled to a filing date of 16 September,

2003. Specifically, counsel asserts that a Federal Express (hereinafter "FedEx") envelope containing the application papers was deposited with the USPTO on 16 September, 2003.

Upon further review, the original application papers received on 16 September, 2003, have been located in the Office. These application papers were assigned Application No. 10/662,818 and assigned a filing date of 16 September, 2003.

As the original application papers have been located and were assigned the filing date requested by applicant, the petition is dismissed as moot. However, since the original application papers for Application No. 10/757,733 were received on 15 January, 2004, the application filing date for Application No. 10/757,733 will not be changed.

As stated above, the earlier of petitioner's application was received on 16 September, 2003. If petitioner desires not to prosecute the later filed application, No. 10/757,733, petitioner may wish to consider filing a letter of express abandonment under 37 CFR 1.138 in Application No. 10/757,733.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 15 January, 2004, using the specification and drawings filed on that date.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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 14 2004

In re Application of	:	
Michael James Pratt et al	:	
Serial No. 10/757,744	:	DECISION ON PETITION
Filed: January 15, 2004	:	TO MAKE SPECIAL
For: POCKET CLOSURE DEVICE	:	

Applicant's petition, filed March 29, 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.

E. Rollins-Cross, Director
Technology Center 3700

Michael F. Krieger
Kirton and McConkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

LSI LOGIC CORPORATION
CORPORATE LEGAL DEPARTMENT
INTELLECTUAL PROPERTY SERVICES GROUP
1621 BARBER LANE, M/S D-106
MILPITAS, CA 95035

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MAY 05 2004

OFFICE OF PETITIONS

In re Application of:	:	
Pekin et al.	:	
Application No. 10/757,752	:	DECISION GRANTING
Filed: January 14, 2004	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
OPTOMIZED BOND OUT METHOD FOR FLIP CHIP WAFERS	:	

This is in response to a Petition under 37 CFR 1.47(a), filed with the instant application on January 14, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Senol Pekin, refuses to join in the application.

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Mr. Senol Pekin
950 Meridian Avenue
Apt. 72
San Jose, CA 95126

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MAY 0 5 2004
OFFICE OF PETITIONS

In re Application of: :
Pekin et al. :
Application No. 10/757,752 : LETTER
Filed: January 14, 2004 :
Title of Invention: :
OPTOMIZED BOND OUT METHOD FOR FLIP :
CHIP WAFERS :

Dear Mr. Pekin:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: LSI LOGIC CORPORATION
CORPORATE LEGAL DEPARTMENT
INTELLECTUAL PROPERTY SERVICES GROUP
1621 BARBER LANE, M/S D-106
MILPITAS, CA 95035

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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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

Mail Date: 04/21/2010

Applicant	: Francesco Pappalardo	: DECISION ON REQUEST FOR
Patent Number	: 7586943	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/757,772	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1136** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ROBERT E KREBS
THELEN REID & PRIEST LLP
PO BOX 640640
SAN JOSE CA 95164-0640

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SEP 12 2007

OFFICE OF PETITIONS

In re Application of :
Taenzer, et al. :
Application No. 10/757,796 : DECISION ON PETITION
Filed: January 13, 2004 :
Attorney Docket No. 035372-003 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 15, 2007.

The petition is **GRANTED.**

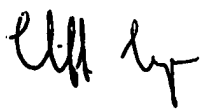
The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed January 3, 2007. A Notice of Abandonment was mailed on July 19, 2007.

A review of the application file reveals the presence of an amendment filed on July 10, 2007. The Amendment was made timely by including a Certificate of Mailing dated July 3, 2007, and by including a three month extension of time. A review of Office finance records reveals that the Office did in fact receive the fee for the three month extension. 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 2615 for consideration of the amendment filed July 10, 2007 (Certificate of Mailing dated July 3, 2007).

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



Cliff Congo
Petitions Attorney
Office of Petitions

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ROBERT E. KREBS
THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE CA 95164-0640

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JUL 18 2008

In re Application of :
Jon C. Taenzer et al. :
Application No. 10/757,796 : ON PETITION
Filed: January 13, 2004 :
Attorney Docket No.: **035372-003** :

This is a decision on the petition filed June 16, 2008, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

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

The application became abandoned on March 13, 2008, for failure to timely submit a timely response to the Final Office Action mailed December 12, 2007, which set a three month period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner asserts that a response was filed February 13, 2008 and in support, petitioner has submitted, *inter alia*, a copy of the response in the form of an amendment and a post card receipt date stamped February 13, 2008 by the USPTO.

A search of the application file and the USPTO records reveals that in fact, the amendment was timely on February 13, 2008 and is of record.

No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2614 for treatment of the response filed February 13, 2008.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

Stephen H. Doctor
MCDONNELL BOEHNEN HULBET & BERGHOFF
300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of:
SIRNA THERAPEUTICS, INC.
PCT No.: PCT/US02/15876
International Filing Date: 17 May 2002
Priority Date: 18 May 2001
Attorney's Docket No.: 02-312-PCT;600.019
For: CONJUGATES AND COMPOSITIONS FOR CELLULAR DELIVERY

DECISION ON PETITION UNDER 37 CFR 1.10

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED**.

The international filing date is corrected to **17 May 2002**. The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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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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MORGAN & FINNEGAN, L.L.P.
1775 EYE STREET, N.W., SUITE 400
WASHINGTON, D.C. 20006

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OCT 3 0 2007

OFFICE OF PETITIONS

In re Application of :
Sung Lee :
Application No. 10/757,806 : DECISION ON PETITION
Filed: January 14, 2004 :
Attorney Docket No. 4063-4001US1 :

This is a decision on:

(1) the request to vacate the USPTO notice mailed June 14, 2005, which is properly treated as a petition under 37 C.F.R. 1.181(a)(3) asking the Director to exercise his supervisory authority and review the previous decision of the USPTO in regard to the Request for Withdrawal as Attorneys or Agents filed May 25, 2004;

(2) the petition to expunge the erroneous Request for Withdrawal as Attorneys or Agents, filed May 25, 2004, under 37 C.F.R. 1.59(b); and

(3) the renewed petition to withdrawal as attorneys or agents under 37 C.F.R. 1.36(b) and 10.40(c)(1)(iv).

These three petitions were filed concurrently on July 26, 2004.

The request to vacate (petition under 37 C.F.R. 1.181(a)(3)) is **GRANTED**, the petition to expunge under 37 C.F.R. 1.59(b) is **GRANTED**, and the petition to withdrawal 37 C.F.R. 1.36(b) is **GRANTED.**

Request to Vacate the USPTO Notice Mailed June 14, 2005

Petitioner filed a request for withdrawal as attorneys or agents under 37 CFR 1.36 and 10.40(c)(1)(iv) on May 18, 2004. This request properly designated the present application, 10/757,806, as the application to which the request should be matched. On May 25, 2005, petitioner filed another request for withdrawal as attorneys or agents under 37 CFR 1.36 and 10.40(c)(1)(iv), which was intended for application number 09/689,635. However, the May 25, 2004 request provided application number 10/757,806 in the bibliographic information listed at the top of the first page, which suggested that the May 25, 2004 request should be matched with

the present application. Although the additional bibliographic information provided on the May 25, 2004 request corresponded with application number 09/689,635, the May 25, 2004 request was matched with the present application. The May 25, 2004 request, however, does not correspond to the present application, 10/757,806, but to unrelated application 09/689,635.

As a result, the attorneys and/or agents of record in the present application were withdrawn and the official correspondence address for application 10/757,806 was changed to an address and legal entity that are not associated with this application. The Notice of Acceptance of Power of Attorney, mailed June 14, 2004, which acknowledged the May 25, 2004 request, was mailed to this incorrect address rather than the Applicant of the present application.

The decision to accept the withdrawal as attorneys or agents and change of address, as requested in the May 25, 2004 filing, was not correct in regard to application 10/757,806. Accordingly, this decision is vacated. The original attorneys or agents of record, as identified in the declaration filed May 18, 2004, are hereby restored.

Petition to Expunge the Erroneous Request for Withdrawal as Attorneys or Agents

Under the circumstances of this case, the USPTO will remove from the official file the request for withdrawal as attorneys or agents filed May 25, 2004. This request was intended for application 09/689,635, which involves a matter and legal entity that are unrelated to the instant application.

Petition to Withdrawal as Attorneys or Agents

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).

Michael S. Marcus signed the request on behalf of all attorneys or agents of record.

All attorneys/agents previously empowered have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the Applicant's last known address, which is indicated below.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

cc: Sung Lee
12 Fox Run Drive
Englewood, New Jersey 07631

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Alexandria, VA 22313-1450
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Paper No. 062005

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

DEC 05 2005

In re Application of:
ANG SHIH
Serial No.: 10/757,817
Filed: January 13, 2004
Attorney Docket No.: **PA2687US**

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 10, 2005.

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

The request meets all the above stated requirements. The request was signed by Robert D. Hayden, 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 the inventor, Ang Shih, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Joes Dees at (571) 272-1569.

Jose Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: ANG SHIH
MICROTOMO, INC.
181 METRO DRIVE, SUITE 580
SAN JOSE, CA 95110

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 3/30/09 Paper No.: —

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/757818 Patent No.: 7501133 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE 1618 Art Unit

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

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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS TN 38132

In re Application of:
MOLZ, FRED J. IV
Serial No. 10/757,819
Filed: Jan. 15, 2004
Docket: MSDI-667/PC860.00
Title: SPINAL IMPLANT CONSTRUCT AND METHOD FOR IMPLANTATION

3/12/09

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed March 5, 2009 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed January 29, 2009.

The petition is granted.

It is noted that the record does show that in the amendment filed on September 25, 2008, the applicant did not substantively amend at least claim 27. There was no change in scope of at least claim 27. Therefore, the rejection of at least claim 27 under 35 U.S.C. 102(b) as being clearly anticipated by Miehelson (US 6,120,503 A) was not necessitated by the amendment filed on September 25, 2008.

As such, the finality of the Office action issued on January 26, 2009 is premature and the finality of the action is hereby withdrawn. The Office action mailed on January 26, 2009 will be designated as non-final Office action. The period to respond to the Office action of January 29, 2008 remains unchanged. Since the finality is being withdrawn, an amendment responding to the Office action will be treated as a 37 CFR § 1.111 amendment. In finding petitioner's points of argument persuasive, the requested relief is granted.

Since the finality is being withdrawn, any amendment responding to the Office action dated January 29, 2009 will be treated as a 37 CFR § 1.111 amendment. The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3774 for further processing. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Donald T. Hajec, Director
Technology Center 3700

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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: Fred J. Molz IV	: DECISION ON REQUEST FOR
Patent Number	: 7621938	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/757,819	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **828** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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AUG 25 2005

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

In re Application of	:
Herbert W. Virgin IV	:
Serial No.: 10/757,832	: PETITION TO MAKE SPECIAL
Filed: January 14, 2004	:
Attorney Docket No.: 60005161-0168	:

This is in response to applicant's petition filed August 3, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d) as regards infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II, (A), (B), and (C). The $130.00 petition fee as required by 37 CFR 1.17(h) was received. Therefore, the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-12-06

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/757832 Patent No.: 7041414

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.

Check claims

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Bruce Campell
SPE

1648
Art Unit

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8-8-07

In re Application of	:	
Michael L. Rooney	:	Decision On
Serial Number: 10/757,848	:	Petition
Filed: January 16, 2004	:	
For: Oxygen Scavengers Independent Of Transition Metal Catalysts	:	

This is a decision on the petition filed July 20, 2007, requesting that the Director exercise supervisory authority to require the Examiner to retract the allegation that Applicant's arguments traversing a restriction requirement is "totally false".

The petition is considered a timely submission under 37 CFR 1.181.

Issues:

On October 5, 2006, the Examiner made a restriction requirement and required an election of species.

On December 11, 2006, Applicant elected an invention and a species and traversed the rejection.

On March 8, 2007, the Examiner mailed a Notice of Incomplete Response and responded to applicant's arguments using the term "totally false" to characterize Applicant's argument.

Applicant responded on March 21, 2007 and requested that the Examiner both point out how and why the Applicant's statement would be characterize as being "totally false" or withdraw the accusation. On June 15, 2007, Second Notice of Incomplete response to the Restriction requirement, the Examiner attempted to address the issues as to why the statement " totally false" was used.

Decision:

A review of the file history shows that while there may have been a legitimate disagreement as to the reasons for the restriction, it does not rise to the level of using the term " totally false" under the circumstances.

The Examiner is directed to clarify the record via the next office action, that while applicant's arguments traversing the restriction may be unpersuasive, it does not rise to the level of being characterize as being "totally false".

The petition is **GRANTED.**

W. Gary Jones, Director
Technology Center 1700
Chemical and Materials Engineering

Cameron K. Weiffenbach
McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington DC 20005-3096

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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DEC 17 2008

In re Application of :
Craig **HANSEN, et al.** :
Application No. 10/757,851 : DECISION GRANTING PETITION
Filed: January 16, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **43876-162** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 15, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 15, 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]

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, the signature of Eric M. Shelton appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts in accordance with 37 CFR 1.34(a).

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

This application is being referred to Technology Center AU 2183 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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Michelle M. Carniaux, Esq.
KENYON & KENYON
One Broadway
New York, NY 10004

Mail Date: 04/21/2010

Applicant	: Martin Vorbach	: DECISION ON REQUEST FOR
Patent Number	: 7584390	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/757,900	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **945** 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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Michelle M. Carniaux, Esq.
KENYON & KENYON
One Broadway
New York, NY 10004

Mail Date: 05/18/2010

Applicant : Martin Vorbach
Patent Number : 7584390
Issue Date : 09/01/2009
Application No: 10/757,900
Filed : 01/14/2004

: 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 **1023** 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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Ronald C. Lundquist, Ph.D.
Fish & Richardson, P.C. P.A.
60 South Sixth Street
Suite 3300
Minneapolis, MN 55402

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Debonte, et al.	:	
Application No.: 10/757,909	:	ON PETITION
Filed: January 15, 2004	:	
Attorney Docket No:07148-063004/A15-505.53	:	

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

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

On April 12, 2006, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two-month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowable period, and the application became abandoned on June 13, 2006. A Notice of Abandonment was mailed on December 22, 2006.

The declaration filed January 3, 2007, is noted and made of record.

Deposit account 50-2342 will be charged $1500.00 for the petition fee.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/757,921	01/14/2004	1616	1094	136382-2		38	3

CONFIRMATION NO. 5122

23413
CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

CORRECTED FILING RECEIPT

OC000000014866699

Date Mailed: 01/04/2005

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

Rathinam Jothi Mahalingam, Bangalore, INDIA;
Sunil Ashtekar, Bangalore, INDIA;
Jegadeesh Thampi, Bangalore, INDIA;
Pramod Shankar Kumbhar, Bangalore, INDIA;

Power of Attorney: The patent practitioners associated with Customer Number **023413**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/530,562 12/18/2003

Foreign Applications

If Required, Foreign Filing License Granted: 09/07/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/757,921

Projected Publication Date: 06/23/2005

Non-Publication Request: No

Early Publication Request: No

Title

Processes for preparing benzoquinones and hydroquinones

Preliminary Class

552

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

GRANTED

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

MICHAEL W. STARKWEATHER
9035 S 1300 E, SUITE 200
SANDY, UT 84094

In re Patent No. 7,059,541
Issue Date: June 13, 2006
Application No. 10/757,942
Filed: June 15, 2004
Attorney Docket No. 3016.2.7

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

There is no indication that the request is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Jason P. Webb appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If, Mr. Webb desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Webb 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.

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) 272-6059.

The patent file will be forwarded to the Files Repository.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: JASON P. WEBB
ADVANTIA LAW GROUP
9035 S 1300 E
SUITE 200
SANDY, UT 84094

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

Paper No.

Cesar M. Diaz
17915 Skypark Circle - Ste. D
Irvine, CA 92614

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JUL 0 8 2004

OFFICE OF PETITIONS

In re Application of : Diaz et al. : Application No. 10/757,948 : Filed: January 14, 2004 : Attorney Docket No. 112803.RTI :

DECISION DISMISSING PETITION

This is a decision on the "PETITION TO CORRECT FILING DATE UNDER 37 CFR § 1.53 AND § 1.17(h)," filed June 17, 2004, requesting that the above-identified application be accorded a filing date of December 18, 2003, rather than the presently accorded filing date of January 14, 2004.

Petitioner asserts that December 18, 2003 is the date that applicant made delivery of the complete application materials to the Patent Office. Petitioner states that applicant, acting in a *pro se* capacity, sent the application papers by Federal Express on December 17, 2003. Applicant sought to claim the benefit of the priority of provisional application No. 60/434,128 filed December 18, 2002. In support thereof, petitioner submits the statement of co-inventor Cesar Diaz and copies of 2 Federal Express Airbills. In his statement, inventor Diaz states that

> "It appears that Federal Express Added MS17, Office of Finance to the address and this caused confusion in your office."

Inventor Diaz implies that this confusion led to the application papers being refused by the USPTO and returned to him. (However, petitioner acknowledges that it is not entirely apparent why the package was returned.)

Petitioner submits no postcard receipt or other evidence of receipt or refusal of the Federal Express package by the USPTO.

RELEVANT STATUTE, REGULATION AND NOTICES

35 U.S.C. 111(a)(4), provides, in pertinent part:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

§ 1.6 Receipt of correspondence.

(a) Date of receipt and Express Mail date of deposit.

Correspondence received in the Patent and Trademark Office is stamped with the date of receipt except as follows:

(1) The Patent and Trademark Office is not open for the filing of correspondence on any day that is a Saturday, Sunday, or Federal holiday within the District of Columbia. Except for correspondence transmitted by facsimile under paragraph (a)(3) of this section, or filed electronically under paragraph (a)(4) of this section, no correspondence is received in the Office on Saturdays, Sundays, or Federal holidays within the District of Columbia.

(2) Correspondence filed in accordance with § 1.10 will be stamped with the date of deposit as "Express Mail" with the United States Postal Service.

§ 1.10 Filing of papers and fees by "Express Mail."

(a) Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that ...

However, as stated in MPEP 512:

The benefits of ... 37 CFR 1.10 apply only to documents delivered to the Office by the U.S. Postal Service.

ANALYSIS

Petitioner's arguments and evidence have been considered, but not found persuasive that the application is entitled to a filing date other than January 14, 2004, the date of receipt of the application papers in the Office.

The gravamen of petitioner's argument is that the application papers were "delivered" to the Office on December 18, 2003, but refused by the USPTO. However, petitioner has not shown that the application papers were, in fact, received in the USPTO on

December 18, 2003. The FedEx Airbill label is insufficient to establish deposit of the application papers in the USPTO. Petitioner has no postcard receipt, indicating acceptance (or presentation) of the papers in the USPTO on December 18, 2003.

Nor does the evidence show that the package was refused by the USPTO. There is no direct evidence of refusal by the USPTO. As "MS17, Office of Finance" is a mail stop address within the USPTO, the addition of this information on the FedEx mail label does not necessarily explain any refusal of the package by the USPTO. Petitioner speculates that the package was refused by the USPTO. However, error on the part of FedEx in delivering the package is not precluded.

Unfortunately, where an error occurs in the Express Mail delivery of a package, an applicant is only protected when they have deposited their papers via the United States Postal Service pursuant to § 1.10. To establish that a paper not entitled to the benefit of a certificate of mailing under 37 CFR 1.8(a)[1] was filed (or attempted to be filed) in the USPTO, applicant must have used Express Mail and complied with the provisions of 37 CFR 1.10, or have a postcard receipt establishing that the paper was actually received in the USPTO (and later misplaced). Complying with the provisions of 37 CFR 1.10 requires that the application papers be sent via deposit in the "Express Mail Post Office to Addressee" service of the United States Postal Service. It is well-established that the benefits of § 1.10 apply only to documents delivered to the Office by the U.S. Postal Service. See MPEP 512. Documents hand-carried or delivered to the Office via commercial couriers, e.g., "Federal Express," "DHL," "Purolator," "Air Borne," "UPS" are not entitled to the benefit of § 1.10. The filing date of papers delivered via commercial couriers is the date of receipt, pursuant to § 1.6. Other than via § 1.10 or postcard evidence, the rules do not provide a mechanism for establishing that such application papers were filed (or attempted to be filed) in the USPTO.

Petitioner acknowledges that the application as originally filed was not filed by way of deposit with the United States Postal Service. Accordingly, pursuant to 37 CFR § 1.6 and 35 U.S.C. 111, the application as originally filed is entitled to the date of receipt of the specification and drawings as the filing date. The date petitioner maintains the application papers were originally sent via Federal Express is not dispositive.

CONCLUSION

Accordingly, the petition must be **dismissed**.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136(a) or (b).

---

[1] The filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date, including a request for a continued prosecution application under § 1.53(d) is not entitled to the benefits of § 1.8.

There is no indication that the person signing the instant petition was given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The application with the presently accorded filing date of January 14, 2004, is undergoing preexamination processing.

Telephone inquiries regarding this matter should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: Charles D. Gunter, Jr.
Whitaker, Chalk, Swindle & Sawyer, LLP
301 Commerce St., STE 3500
Fort Worth, TX 76102-4186

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OCT 27 2008

OFFICE OF PETITIONS

IRA LEE ZEBRAK
THE BOC GROUP, INC.
LEGAL SERVICES-INTELLECTUAL PROPERTY
575 MOUNTAIN AVENUE
MURRAY HILL, NJ 07974

In re Application of :
Robert Bruce Grant et al :
Application 10/757,954 : ON PETITION
Filed: January 15, 2004 :
Attorney Docket No. M03B330 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 4, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 5, 2007.

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

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

This matter is being referred to Technology Center AU 1795 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Edwards Vacuum, Inc.
Legal Services-Intellectual Property
55 Madison Avenue, Suite 400
Morristown, NJ 07960

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)
6,962,235	2005-11-08	10/757,956	2004-01-15	681578.0001

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	/Leslie L. Kasten, Jr./	Date (YYYY-MM-DD)	2009-12-22
Name	Leslie L. Kasten, Jr.	Registration Number	28959

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. 6962235
Issue Date: November 8,2005
Application No. 10757956
Filed: January 15,2004
Attorney Docket No. 10369-4US

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

This is a decision on the electronic petition, filed December 22,2009 ,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 December 22,2009 . 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.

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAIL

APR 19 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Ogasawara, et al.
Application No. 10/757,958
Filed: January 13, 2004
For: METHOD OF INSTALLING SOFTWARE ON STORAGE DEVICE CONTROLLING APPARATUS, METHOD OF CONTROLLING STORAGE DEVICE CONTROLLING APPARATUS, AND STORAGE DEVICE CONTROLLING APPARATUS

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

This is a response to the petition filed 13 September 2004, and resubmitted 03 February 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 13 September 2004, and resubmitted 03 February 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 essentially the entirety of claim 1 and/or claim 2 is not taught or suggested by the reference, is presented for each of the six references purported to be "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 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

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PALMER & DODGE, LLP
RICHARD B. SMITH
111 HUNTINGTON AVENUE
BOSTON, MA 02199

Mail Date: 04/21/2010

Applicant	: Pawel Z. Chadzynski	: DECISION ON REQUEST FOR
Patent Number	: 7661101	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/757,975	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **887** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAR 11 2008

OFFICE OF PETITIONS

In re Application of :
Rodney Brenneman, et al. :
Application No. 10/757,980 : DECISION ON PETITION
Filed: January 13, 2004 : TO WITHDRAW
Attorney Docket No. 021496-000410US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 6, 2007.

The request is **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 James M. Heslin on behalf of all attorneys of record who are associated with customer No. 20350.

All attorneys/agents associated with the Customer Number 20350 have been withdrawn.

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

The 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). The power of attorney filed on June 7, 2004 does not include the reel and frame number.

The application became abandoned for failure to timely respond to the Office action mailed October 18, 2006.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: RODNEY BRENNEMAN
34002 LAS PALMAS DEL MAR
SAN JUAN CAPOSTRANO, CA 92675

cc: JOHNEY HAN
LEVINE BAGADE HAN, LLP
2483 EAST BAYSHORE ROAD
SUITE 100
PALO ALTO, CA 94303

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/757,980	01/13/2004	Rodney Brenneman	021496-000410US

CONFIRMATION NO. 4249

POWER OF ATTORNEY NOTICE

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000028735473

Date Mailed: 03/10/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/06/2007.

- 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.

/amwise/

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

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TIM L. BURGESS, P.C.
402 OAK LANE
HOUSTON TX 77024

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JUL 13 2004

OFFICE OF PETITIONS

In re Application of :
Dharia and Rodrigue :
Application No. 10/757,982 : DECISION ACCORDING STATUS
Filed: 14 January, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. RECS.01US :

This is in response to the petition filed under 37 CFR 1.47(a) on 21 June, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Amitkumar Dharia, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established that a copy of the application was sent to the non-signing inventor. However, the non-signing inventor refused in writing to execute the declaration listing him as a joint inventor along with Jerry Wayne Rodrigue.

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 07-04

Amitkumar Dharia
387 Graham Drive
Coppell TX 75019

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JUL 1 3 2004

OFFICE OF PETITIONS

In re Application of
Dharia et al.
Application No. 10/757,982
Filed: 14 January, 2004
For: Thermoplastic Olefin Compositions, Processes and Articles

Dear Mr. Dharia:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

TIM L. BURGESS, P.C.
402 OAK LANE
HOUSTON TX 77024

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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

COPY MAILED

OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Shinji, Watanabe :
Application No. 10/757,998 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. Q79248

This is a decision on the petition, filed September 24, 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 August 9, 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 Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 3747 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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 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

In re Patent No. 6930421
Issue Date: August 16,2005
Application No. 10758000
Filed: January 16,2004
Attorney Docket No. 061467-5005US

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

This is a decision on the electronic petition, filed September 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 September 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.

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)
6930421	2005-08-16	10758000	2004-01-16	

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	/Stuart I. Smith/	Date (YYYY-MM-DD)	2009-09-15
Name	Stuart I. Smith	Registration Number	42159

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

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

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Charles J. Davidson	: DECISION ON REQUEST FOR
Patent Number	: 7585317	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/758,020	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **505** 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

HOFFMAN WARNICK LLC
75 STATE STREET
14TH FLOOR
ALBANY NY 12207

MAILED

JUL 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Yu-Chuan et al.	:	
Application No. 10/758,088	:	ON PETITION
Filed: January 16, 2004	:	
Attorney Docket No. 3212-53	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 20, 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 payment of the $1510.00 issue fee and the $300.00 publication fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

As the Power of Attorney was only recently given to the petitioner, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

OCT 31 2005

OFFICE OF PETITIONS

In re Application of :
Kenji Kataoka et al :
Application No. 10/758,101 :
Filed: January 16, 2004 :
Attorney Docket No. 118371 :

ON PETITION

This is a decision on the petition, filed October 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3747 will consider the request for continued examination under 37 CFR 1.114.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/28/06

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 10/758109 6967424

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

_____

_____

_____

_____

_____

TRAN NGUYEN
PRIMARY EXAMINER

2834

_____ **SPE** | **Art Unit**

approved
JRN
4/26/06

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. : 6,967,424

APPLICATION NO.: 10/758,109

ISSUE DATE : November 22, 2005

INVENTOR(S) : Vladimir Vladimirovich Popov

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

In the drawings:

in Figure 1 show the angles indicated as 2.5, 7.5 and 12.5 degrees measured between the center line of the slots 12 and the center line of the shallow notches 20. A corrected Figure 1 is shown on page 2 of 3;

in Figure 2a show groove 200 to be in the same tangential position with regard to the slots of laminations 10-1, 10-2, 10-3, 10-4, 10-5 and 10-6. A corrected Figure 2a is shown on page 3 of 3; and

in Figure 2b show groove 201 to be in the same tangential position with regard to the slots of laminations 10-1, 10-2, 10-3, 10-4, 10-5 and 10-6. A corrected Figure 2b is shown on page 3 of 3.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Duane Morris LLP
1667 K Street, N.W. Suite 700
Washington, DC 20006

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.

OIPE IAP45 FEB 13 2006 PATENT & TRADEMARK OFFICE

all 3 pages

approved

4/26/06

ATTORNEY DOCKET NO. BOE01 043

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Patent of Vladimir Vladimirovich POPOV

Serial No.: 10/758,109 Patent No.: 6,967,424

Filed: January 16, 2004 Issue Date: November 22, 2005

Title: ROTOR ASSEMBLY AND STATOR ASSEMBLY FOR AN ELECTRICAL MACHINE

REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 C.F.R. § 1.323

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Patentee requests a certificate of correction for the subject patent to reflect errors identified in Figures 1, 2a and 2b of the subject patent.

The errors are of a minor nature or character and occurred in good faith. Correction thereof does not involve such changes in the patent as would constitute new matter or would require re-examination.

Attached hereto, in duplicate, is Form PTO/SB/44 with at least one copy being suitable for printing. Attached hereto are "Replacement sheets" for amended Figures 1, 2a and 2b and "Annotated marked-up sheets" showing the minor amendments to Figures 1, 2a and 2b.

Applicant submits herewith the requisite fee pursuant to 37 C.F.R. § 1.323 and

respectfully solicits issuance of a corrected patent or in the alternative, issuance of a certificate of correction reflecting the corrections identified in the attached PTO/SB/44 form and Figures 1, 2a and 2b replacement sheets.

Respectfully submitted,

By:

Mark C. Comtois, Reg. No. 46,285
D. Joseph English Reg. No. 42,514
Patrick D. McPherson Reg. No. 46,255

DUANE MORRIS LLP
1667 K Street, N.W., Suite 700
Washington, D.C. 20006
Telephone: (202) 776-7800
Telecopier: (202) 776-7801

Dated: February 13, 2006

2006

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

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

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AUG 15 2008

In re Application of	:	
Hiroi et al.	:	
Application No. 10/758116	:	
Filing or 371(c) Date: 01/16/2004	:	ON PETITION
Patent Number: 7303719	:	
Issue Date: 12/04/2007	:	
Title of Invention:	:	
RESIN MOLDED ARTICLES	:	

This is a decision on the Petition for Duplicate Letters Paten Pursuant to 37 C.F.R. § 1.182, filed June 19, 2008. The petition is properly treated under.

The petition is **DISMISSED**.

Petitioner files the present petition requesting a duplicate Letters Patent, and in support of the petition asserts that the original letters Patent was never received at the correspondence address indicated on the PTOL-85B. Petitioner does not include an authorization to charge the petition fee to Petitioner's deposit account[1].

Petitioner is advised that where nonreceipt of the letters Patent is alleged (no petition fee), the showing required is the same as that set forth in MPEP 711.03(c).

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action.

[1] Petitioner is advised that the fee for a petition under 37 CFR 1.182 increased to $400.00 effective December 8, 2004, and that a current fee schedule is available at www.uspto.gov.

That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied)

MPEP 711.03(c)

The petition is dismissed without prejudice. Petitioner should file a request for reconsideration of petition and include the necessary statement(s) and evidence.

Alternatively, Petitioner may file a request for reconsideration of petition and include the appropriate petition fee. Petitioner is advised that the fee for a petition under 37 CFR 1.182 increased to $400.00 effective December 8, 2004. Before the petition may be addressed on its merits, the petition fee is required.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3232.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

MAR 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Hiroi et al.	:	
Application No. 10/758116	:	
Filing or 371(c) Date: 01/16/2004	:	ON PETITION
Patent Number: 7303719	:	
Issue Date: 12/04/2007	:	
Title of Invention:	:	
RESIN MOLDED ARTICLES	:	

This is a decision on the "Renewed Petition for Duplicate Letters Paten Pursuant to 37 C.F.R. § 1.181 or Alternatively Under §1.182," filed March 9, 2009.

The petition is **GRANTED**.

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

Questions concerning this decision may be directed to the undersigned at 571-232-3232. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer, in the Office of Data Management at (703) 308-9250, Ext. 119.

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

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

CC: Niomi Farmer
South Tower 8th floor, Room C-32 (FAX 571-270-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON
1500 K STREET NW
SUITE 700
WASHINGTON DC 20005

COPY MAILED

AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Hideaki Yaguchi et al :
Application No. 10/758,125 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. 10517/205 :

This is a decision on the petition, filed August 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 June 23, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2837 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON DC 20006

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APR 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Choi, Kyong Jai :
Application No. 10/758,133 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. P69500US0 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 26, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue 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) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/758,133	01/16/2004	3635	685	P69500US0	1	1

CONFIRMATION NO. 5025

43569
MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON, DC 20006

CORRECTED FILING RECEIPT
OC000000023193374
OC000000023193374

Date Mailed: 03/30/2007

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)

Kyong Jai Choi, Pusan, KOREA, REPUBLIC OF;

Power of Attorney:

Irwin Aisenberg--19007
Harvey Jacobson Jr--20851
John Holman--22769
Nathaniel Humphries--22772
Allen Melser--27215
James Hamilton--28421
Jonathan Scherer--29851
William Player--31409
Yoon Ham--45307

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 10-2003-87144 12/03/2003

If Required, Foreign Filing License Granted: 04/22/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/758,133

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

WATERPROOF STRUCTURE OF VENTILATING WINDOW FOR TENT

Preliminary Class

135

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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED

JAN 07 2010

In re Application of :
Eun-Kyung Lee, et al. :
Application No. 10/758,136 : DECISION ON PETITION
Filed: January 16, 2005 :
Attorney Docket No. 030681-624 :

This is a decision on the petition, filed October 21, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of a prior-filed nonprovisional application under 37 CFR 1.78(a)(3).

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of John A. Castellano appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Castellano desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is **DISMISSED**.

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

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

The petition fails to satisfy item (1) above.

The reference was not submitted during the pendency of the later-filed application. In this regard, the present application became abandoned for a failure to timely reply to the non-final Office action of September 20, 2005. In view of the 1-month petition for extension of time filed January 20, 2006, the application became abandoned on January 21, 2006.

Before a petition under 37 CFR 1.78(a)(3) can be granted, applicant must first resolve the pendency issue in the later-filed application. See 37 CFR 1.78(a)(2)(ii). Then a renewed petition under 37 CFR § 1.78(a)(3) should be filed. No further petition fee is required.

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]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JOHN A. CASTELLANO
P.O. BOX 8910
RESTON, VA 20195

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

COPY MAILED

JAN 27 2010

In re Application of	:	
Eun-Kyung Lee, et al.	:	
Application No. 10/758,136	:	DECISION ON PETITION
Filed: January 16, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2557SI-001230/US/CPA	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed January 14, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed January 20, 2010.

The petition is **GRANTED**.

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

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application(s), unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The 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.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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

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

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

Sherry D. Brinkley
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 NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/758,136	01/16/2004	2813	1170	2557SI-001230/US/CPA	35	2

CONFIRMATION NO. 5019

CORRECTED FILING RECEIPT

30593
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

Date Mailed: 01/26/2010

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)

Eun-Kyung Lee, Gyeonggi-do, KOREA, REPUBLIC OF;
Byoung-Iyong Choi, Seoul, KOREA, REPUBLIC OF;
Pil-soo Ahn, Gyeonggi-do, KOREA, REPUBLIC OF;
Jun-young Kim, Gyeonggi-do, KOREA, REPUBLIC OF;
Young-gu Jin, Gyeonggi-do, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

Samsung Electronics Co, Ltd., Gyeonggi-do, KOREA, REPUBLIC OF

Power of Attorney: The patent practitioners associated with Customer Number 30593

Domestic Priority data as claimed by applicant

This application is a CIP of 10/122,421 04/16/2002 PAT 6,930,330

Foreign Applications

REPUBLIC OF KOREA 2003-3259 01/17/2003
REPUBLIC OF KOREA 2002-1431 01/10/2002

If Required, Foreign Filing License Granted: 04/24/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/758,136**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method of manufacturing silicon optoelectronic device,silicon optoelectronic device manufactured by the method, and image input and/or output apparatus using the silicon optoelectronic device

Preliminary Class

438

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SNELL & WILMER L.L.P. (MAIN)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX AZ 85004-2202

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NOV 13 2007

OFFICE OF PETITIONS

In re Application of :
Mia Palkie et al :
Application No. 10/758,141 : DECISION GRANTING PETITION
Filed: January 15, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 50722.0100 :

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

The petition is **GRANTED**.

The 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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of January 12, 2007, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 4/3/2009

DATE : 4/2/09

TO SPE OF : ART UNIT 3635

SUBJECT : Request for Certificate of Correction for Appl. No.: 10758154 Patent No.: 7487623 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.

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

Comments: OK to approve the change

/Jong-Suk (James) Lee/ SPE, AU 2885

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/758,164	01/15/2004	2813	770	5649-957DV	5	20	3

CONFIRMATION NO. 4829

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

CORRECTED FILING RECEIPT

OC000000013013636

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)

Kyu-Mann Lee, Kyunggi-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

This application is a DIV of 10/164,186 06/05/2002 PAT 6,699,725

Foreign Applications

REPUBLIC OF KOREA 2001-35430 06/21/2001

If Required, Foreign Filing License Granted: 04/23/2004

Projected Publication Date: 08/05/2004

Non-Publication Request: No

Early Publication Request: No

Title

FERROELECTRIC MEMORY DEVICES

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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Paper No. None

Kenneth D. Sibley
Myers Bigel Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh NC 27627

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of :
Bruce Hammerberg :
Application No. 10/758,165 :
Filing Date: January 15, 2004 :
Attorney Docket No. 5051-661 :
Title: IMMUNOGLOBULIN E :
DETECTION IN MAMMALIAN SPECIES :

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

This is a decision on the petition under 37 C.F.R. §1.10(c), filed September 14, 2004, requesting the according of a filing date of January 15, 2004 to application number 10/758,165.

The application was deposited on January 15, 2004. On August 12, 2004, the Office mailed a filing receipt, indicating that application number 10/758,165 had been accorded a filing date of January 16, 2004.

With the instant petition, Petitioner has included a copy of the Express Mail label number EV381447695US[1].

Petitioner has alleged that the application was deposited on January 15, 2004, and the Patent Office has incorrectly assigned a filing date of January 16, 2004 to the instant application. Petitioner has included a copy of the Express Mail label, and it is noted that it bears a "date-in" of January 15, 2004.

A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) was also

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

inconclusive, in that it stated that the information pertaining to this Express Mail label number is stored off-line. A copy of the latter search result is enclosed.

Although the application received a filing date of January 16, 2004, the evidence is convincing that the application papers were filed on January 15, 2004, and the Patent Office assigned the incorrect date to the application. Therefore, the application was entitled to a filing date of January 15, 2004.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 15, 2004, as well as the mailing of a corrected filing receipt.

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

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

Encl.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DW Feb-09

HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

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FEB 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Negoescu et al.	:	
Application Number: 10/758177	:	DECISION DISMISSING PETITION
Filing Date: 01/15/2004	:	
Attorney Docket Number:	:	
OWND002US0	:	

This is a decision in reference to the petition to withdraw holding of abandonment under 37 CFR 1.181(a), filed on December 22, 2008, which is treated as a petition filed under 37 CFR 1.10(c).

The petition is **dismissed**.

The application became abandoned on June 27, 2007, for failure to timely file a response to the final Office action mailed on March 26, 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 October 18, 2007.

Petitioners assert that a notice of appeal and appeal brief were timely submitted on August 22, 2007, with a two (2) month extension of time, by Express Mail. In support, petitioners have provided a copy of the Notice of Appeal and Appeal Brief allegedly filed on August 22, 2007, as well as a copy of the USPS internet Track & Confirm statement showing that Express Mail Label No. EQ457498076US was delivered on August 23, 2007.

Specifically, petitioner's counsel of record, Heinz D. Grether, states that the Notice of Abandonment was never received. Counsel states that he checked the status of the case on November

21, 2008, and thereby learned that the application had become abandoned.

Petitioner has not shown that the correspondence allegedly sent by Express Mail was mailed in compliance with 37 CFR 1.10(e), which states:

> Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label,

returned postcard receipt, and official notation entered by the USPS.

The petition lacks items (2) and (3).

With regard to item (2), a review of the papers allegedly mailed by Express Mail on August 22, 2007 (*i.e.*, the Notice of Appeal and Appeal Brief), reveals that the Express Mail label number is not included thereon. Specifically, the Express Mail label number has not been placed on any of the papers allegedly mailed on August 22, 2007.

In the absence of an Express Mail label number, there is no evidence to link the papers asserted to have been filed on August 22, 2007, to the Express Mail mailing in question. If petitioners have such evidence, such as a transmittal sheet filed with the notice of appeal and appeal brief itemizing their filing and containing the Express Mail label number, such evidence should be filed with a renewed petition.

It is further noted that there is no provision under 37 CFR 1.8 to accept a Certificate of Mailing for papers mailed by Express Mail as filed in the Office on the date entered on the Certificate of Mailing.

Additionally, with regard to item (3), no copy of the Express Mail label has been provided, showing the "date-in" or other official notation from the USPS. While the Track & Confirm receipt shows the delivery date of the Express Mail envelope, it does not show the "date-in", or date on which the envelope was *accepted* by the USPS.

Lastly, petitioners have failed to provide any other evidence showing the date of deposit or of receipt of the papers allegedly mailed on August 22, 2007. In this regard, although a return receipt postcard has been provided, there is no "Office-date" stamp on the postcard.

MPEP 503 states that the USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. Unfortunately, the postcard submitted with the petition contains no "Office date" stamp. Accordingly, that postcard cannot serve as evidence of receipt of the papers itemized thereon in the USPTO.

In summary, the showing of record is that petitioner intended to file a Notice of Appeal and Appeal Brief in the USPTO on August 22, 2007, but failed so to do.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

Petitioner may wish to file a petition to revive the application, accompanied by the proper fee. The form for a petition under 37 CFR 1.137(b) is enclosed for petitioner's convenience.

Receipt of the Change of Correspondence Address is acknowledged. All future correspondence will be mailed to the new address of record.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64

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[1] 37 CFR 1.181(f).

PTO/SB/64 (01-09)
Approved for use through 02/28/2009. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

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

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

_____ Date	_____ Signature
	_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

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HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

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MAY 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Negoescu et al.	:	
Application Number: 10/758177	:	DECISION ON PETITION
Filing Date: 01/15/2004	:	
Attorney Docket Number:	:	
OWND002US0	:	

This is a decision on the petition filed on April 9, 2009, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on June 27, 2007, for failure to timely file a response to the final Office action mailed on March 26, 2007, which set a three (3) month shortened statutory period

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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 Director may required additional information where there is a question whether the delay was unintentional; and

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

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 October 18, 2007. On December 22, 2008, a petition to withdraw the holding of abandonment was filed. On February 13, 2009, the petition was dismissed.

On April 9, 2009, the subject petition to revive the application was filed.

The Notice of Appeal filed December 22, 2008, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

The duplicate Notice of Appeal fee filed with the subject petition is unnecessary and will be credited to counsel's deposit account.[2]

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[3] The two (2)-month extension request filed on December 22, 2008, was submitted more than three (3) months after the end of the period for reply to the final Office action mailed on March 26, 2007, and therefore is unnecessary. The extension of time fee paid on December 22, 2008, will be refunded to counsel.

This application is being referred to Technology Center Art Unit 2837 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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[2] The Notice of Appeal fee was originally paid on December 22, 2008.

[3] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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Taiyo Corporation
2111 Jefferson Davis Highway
#412, North
Arlington, VA 22202

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of :
Hiroyuki Mifune :
Application No. 10/758,183 : DECISION ON PETITION
Filed: January 16, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. FS-F03225-01

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 27, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant pending application was filed on January 16, 2004, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

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

This application is being forwarded to Technology Center Art Unit 1752 for appropriate action on the amendment filed August 27, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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VERIZON
PATENT MANAGEMENT GROUP
1320 North Court House Road
9th Floor
ARLINGTON VA 22201-2909

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JUN 29 2009

OFFICE OF PETITIONS

In re Application of :
Gagan Puranik et al. :
Application No. 10/758,199 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. SKY03009 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay in a timely manner the issue and publication fees on or before February 17, 2009 as required in the Notice of Allowance and Fee(s) Due mailed November 17, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 18, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the required reply; (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 37 CFR 1.137(b) was unintentional have been received. Accordingly, the reply to Notice of Allowance and Fee(s) Due of November 17, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Ron Abelson at (571) 272-3165 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Office of Data Management for appropriate action.

/David Bucci/
David Bucci
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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/758,207	01/15/2004	3643	428	29379.00	4	18	4

CONFIRMATION NO. 4873

22465
PITTS AND BRITTIAN P C
P O BOX 51295
KNOXVILLE, TN 37950-1295

CORRECTED FILING RECEIPT

OC000000012900625

Date Mailed: 06/10/2004

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

Applicant(s)

Ty W. Phipps, Knoxville, TN;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/23/2004

Projected Publication Date: 07/21/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Multiple action buzz blade fishing lure

Preliminary Class

043

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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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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AUG 0 8 2005

OFFICE OF PETITIONS

Applicant: Vidal et al.
Appl. No.: 10/758,215
Filing Date: January 16, 2004
Title: DYEING COMPOSITION COMPRISING AN ACYLAMINOPHENOL COUPLER AND USE OF THIS COUPLER FOR DYEING KERATINOUS FIBRES
Attorney Docket No.: 05725.1327
Pub. No.: US 2004/0205906 A1
Pub. Date: October 21, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on December 21, 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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August 19, 2008

Myron Keith Wyche
CONNOLLY BOVE LODGE & HUTZ LLP
1990 M Street, N.W., Suite 800
Washington, DC 20036

Patent No.: 7,118,247 B2
Application No.: 10/758,216
Inventor(s): Ivo Zavbi, et al.
Issued: October 10, 2006
Title: **STRUCTURE FOR ILLUMINATING A ROULETTE WHEEL**

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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OFFICE OF PETITIONS

FREEDMAN & ASSOCIATES
117 CENTREPOINTE DRIVE, SUITE 350
NEPEAN, ONTARIO K2G 5X3 CA CANADA

In re Patent No. **7,039,978**
Issue Date: May 9, 2006
Application No. 10/758,225
Filed: January 16, 2004
Attorney Docket No. **12M-24 US CIP**

NOTICE UNDER 37 CFR 1.28(C)

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

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

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

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

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

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

United States
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Trademark Office

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PETITION DECISION

04/12/04

Eric Ives
Knobbe, Martens, Olson & Bear, LLP
Customer No. 20995

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/758249 received on 03/17/04 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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AUG 17 2004

OFFICE OF PETITIONS

In re Application of :
Sirringhaus, et al. :
Application No.: 10/758,256 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No.: Q79460 :

This a decision on the petition filed June 23, 2004. The petition will be treated under 37 CFR 1.182 in accordance with 37 CFR 1.53(e)(2).

The petition is **granted.**

The subject non-provisional application was filed on January 16, 2004. On April 23, 2004, the Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application indicating that the application had not been accorded a filing date because the drawings were missing. The notice allowed a two-month period for reply. The instant petition was filed on June 23, 2004 and was accompanied by the omitted drawings.

Petitioner concedes that the drawings were not present on filing, however; petitioner argues that the application was complete on filing and entitled to a filing date of January 16, 2004, because application 10/758, 256 incorporated by reference application 10/018,425.

In view of the incorporation by reference statement found in the specification, the application will be accorded a filing date of January 16, 2004. The examiner assigned to this application will be expected to compare the drawings filed with the instant petition with the drawings contained in application 10/018,425 to be sure they do not contain new matter.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of January 16, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of

Sirringhaus, et al.

Application No. 10/758,256

Filed: January 16, 2004

Attorney Docket No. Q794460

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed June 28, 2006.

The petition is **granted**.

This application was held abandoned March 1, 2005, after no reply was received to the non-final Office action mailed November 30, 2004. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on March 1, 2005. A Notice of Abandonment was mailed April 6, 2006. The instant petition was filed on June 28, 2006. Petitioner maintains that the non-final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 1700, GAU 1773 for further processing including remailing of the non-final Office action purportedly mailed November 30, 2004, and resetting of the time period for reply.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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VENABLE LLP
575 7TH STREET, N.W.
WASHINGTON DC 20004-1601

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AUG 2 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Brittingham et al.	:	DECISION DISMISSING
Application No. 10/758,274	:	PETITION
Filed: 16 January, 2004	:	
Attorney's Docket No. 7767-200246	:	

This is a decision on the petition filed on 25 June, 2004, requesting that the above-identified application be accorded a filing date of 16 January, 2004, with Figures 8 & 9 described in the specification of the specification as a part of the original disclosure.

The petition is dismissed.

The application was filed on 16 February, 2004.

Accordingly, on 28 April, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of 16 January, 2004, but that Figures 8 & 9 described in the specification appeared to have been omitted. Additionally, applicants were advised that the statutory basic filing fee, the oath or declaration, and a surcharge for their late filing was due.

In response, on 25 June, 2004, the present petition and, *inter alia*, two (2) sheets of drawings containing Figures 8 & 9 described in the specification was filed. Petitioners argue that the sheets of drawings containing Figures 8 & 9 were filed with the other application papers on 16 January, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 16 January, 2004, and identifies the application by the first named inventor's name, and attorney docket number, and acknowledges receipt of, *inter alia*, "Formal

Drawings (10 sheets, 1-11 Figs.)". Petitioners request that the application, including two (2) sheets of drawings containing Figures 8 & 9 described in the specification, be accorded a filing date of 16 January, 2004.

Petitioners argument has been considered, but is not persuasive. The showing of record is that 10 sheets of drawings containing Figures 1A, 1B, 2, 3, 4, 5A, 5B, 6, 7, and two (2) copies of Figures 10 and 11, were received in the Office on 16 January, 2004, and petitioners' postcard receipt reflects that the Office received the items listed above. While the postcard itemizes the filing of 10 sheets of drawings, the postcard receipt does not itemize the filing of Figures 8 and 9. Absent a showing that Figures 8 and 9 were located within the 10 sheets of drawings received in the Office on 16 January, 2004, petitioners simply have no evidence that Figures 8 & 9 were located among the application papers received in the Office on that date.

Petitioner may submit Figures 8 & 9 in the form of a preliminary amendment. If Figures 8 & 9 are submitted as a preliminary amendment, they will be reviewed by the examiner for new matter.

As the petition resulted from applicant's filing error and not as a result of an error on the part of the Office, the petition fee will not be refunded.

The application will be processed and examined using the application papers present on filing. The copies of drawings, including Figures 8 & 9, filed with the present petition will not be used for processing or examination, but will be retained in the application file.

The address on the present petition is different than the address of record. A courtesy copy of this petition will be forwarded to the address on the petition. All future correspondence, however, will be mailed solely to the address of record.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 16 January, 2004, using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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DAVID W. HIGHET, VICE PRESIDENT
AND CHIEF IP COUNSEL
1 BECTON DRIVE, MC 110
FRANKLIN LAKES NJ 07417-1880

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of :
Brittingham et al. :
Application No. 10/758,274 : ON PETITION
Filed: 16 January, 2004 :
Atty Docket No. 7767-200246 :

This is a decision on the renewed petition filed on 24 September, 2004, requesting that the above-identified application be accorded a filing date of 16 January, 2004, with Figures 8 & 9 described in the specification of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 16 February, 2004.

Accordingly, on 28 April, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of 16 January, 2004, but that Figures 8 & 9 described in the specification appeared to have been omitted. Additionally, applicants were advised that the statutory basic filing fee, the oath or declaration, and a surcharge for their late filing was due. The petition filed on 25 June, 2004, was dismissed on 25 August, 2004.

In response, on 24 September, 2004, the present request for reconsideration was filed. Petitioners again assert that the sheets of drawings containing Figures 8 & 9 were filed with the other application papers on 16 January, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 16 January, 2004, and identifies the application by the first named inventor's name, and attorney docket number, and acknowledges receipt of, *inter alia*, "Formal Drawings (10 sheets, 1-11 Figs.)". Petitioners request that the

application, including two (2) sheets of drawings containing Figures 8 & 9 described in the specification, be accorded a filing date of 16 January, 2004. Petitioners have requested that the originally filed paper copy of the application papers be reviewed.

A review of the original application papers reveals that two (2) pages containing Figures 8 and 9 are among the application papers received on 16 January, 2004. As such, the evidence is convincing that the application papers received on 16 January, 2004, included two (2) sheets of drawings containing Figures 8 and 9.

The application will be processed and examined using the copy of the two (2) sheets of drawings containing Figures 8 and 9 submitted with the original application papers.

As the petition resulted from an error on the part of the Office, the petition fee will be credited to counsel's deposit account, No. 22-0261.

The application will be processed and examined using the application papers present on filing, including the two (2) sheets of drawings containing Figures 8 and 9.

The address on the present petition is different than the address of record. A courtesy copy of this petition will be forwarded to the address on the petition. All future correspondence, however, will be mailed solely to the address of record.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 16 January, 2004, using the application papers, including two (2) sheets of drawings containing Figures 8 and 9, filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

---

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

[2] Id.

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Linda E. Horner
United States Patent & Trademark Office
600 Dulany Street
Alexandria, VA 22314

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of :
Jeremy Cooper :
Application No. 10/758,282 : DECISION ON PETITION
Filed: January 16, 2004 : TO WITHDRAW
Attorney Docket No. 2018.0050001 : 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 April 6, 2006 that requires a reply from the attorney of record.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Sterne, Kessler, Goldstein & Fox PLLC**
1100 New York Avenue, N.W.
Washington D.C. 20005

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HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego CA 92122

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OFFICE OF PETITIONS

In re Application of :
COBLEIGH, Melody A. et al. :
Application No. 10/758,307 : DECISION ON PETITION
Filed: January 14, 2004 : TO WITHDRAW
Attorney Docket No. **39740-0008A** : 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 17, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Heller Ehrman LLP has been revoked by the assignee of the patent application on September 19, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **GENOMIC HEALTH, INC.**
301 PENOBSCOT ROAD
REDWOOD CITY, CA 94063

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OFFICE OF PETITIONS

Genomic Health, Inc.
c/o Kathleen Determann
301 Penobscot Road
Redwood City, CA 94063

In re Patent of Cobleigh et al.	:	DECISION ON REQUEST
Patent No. 7,569,345	:	FOR RECONSIDERATION OF
Issue Date: August 4, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/758,307	:	AND NOTICE OF INTENT TO
Filing Date: January 14, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. GHDX-008	:	CORRECTION

This is a decision on the petition filed on September 30, 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 the term of the above-identified patent is extended or adjusted by eight hundred thirty-five (835) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate the term of the above-identified patent is extended or adjusted by eight hundred thirty-five (835) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred thirty-five (835)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,569,345 B2
ISSUE DATE	:	August 4, 2009
INVENTOR(S)	:	Cobleigh 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 463 days.

Delete the phrase "by 463 days" and insert - by 835 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/16/08

TO SPE OF : ART UNIT 3676 (3600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/758,309 Patent No.: 7,413,032

Attn: Shane Bomar

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

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

Thank You For Your Assistance

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

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

Comments: The change made to col. 11, line 50 should not be entered as "stabilize" should be --stabilizer--

_____ /Jennifer H Gay/ __3676_

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Bose Corporation
c/o Donna Griffiths
The Mountain, MS 40
IP Legal - Patent Support
Framingham, MA 01701

Mail Date: 04/23/2010

Applicant	: Roman Litovsky	: DECISION ON REQUEST FOR
Patent Number	: 7568552	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/758,336	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1308** 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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WATTS HOFFMANN CO., L.P.A.
1100 SUPERIOR AVENUE, STE. 1750
CLEVELAND, OH 44114

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OFFICE OF PETITIONS

In re Application of	:	
Parets et al.	:	
Application No. 10/758,337	:	DECISION GRANTING PETITION
Filed: January 15, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 16-336	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 15, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/440,603, filed January 16, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/440,603, which was filed on January 16, 2003, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

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

This matter is being referred to Technology Center AU 3754 for appropriate action on the amendment submitted August 15, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/440,603.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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MICHAEL E. CLARKE
5100 BELTLINE ROAD
SUITE 404
DALLAS TX 75254

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JUL 02 2007

OFFICE OF PETITIONS

In re Application of :
Michael E. Clarke :
Application No. 10/758,341 : ON PETITION
Filed: January 15, 2004 :
For: **JEWELRY CLEANING DEVICE** :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed July 14, 2006.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

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

This matter is being referred to Publishing Division.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Blank Issue Fee Transmittal Form PTOL-85b

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (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)

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.

TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE

EXAMINER	ART UNIT	CLASS-SUBCLASS

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, 1 _____

(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. 2 _____ 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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In re Application of	:	
Yin et al.	:	
Application No. 10/758386	:	
Filing or 371(c) Date: 01/15/2004	:	DECISION
Attorney Docket Number: 200312164-1	:	ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Evidence that a Reply was Timely Mailed or Filed (MPEP 711.03(c)(I)(B), filed October 9, 2008. The petition is properly treated under 37 C.F.R.1.181.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed April 21, 2008. The Notice set a non-extendable three (3) month period for response. No response having been received, the application became abandoned on July 22, 2008. A Notice of Abandonment was mailed August 19, 2008.

Applicant files the present Petition and asserts that a timely reply to the Notice was filed on May 21, 200. In support of this assertion, Applicant includes a copy of the reply, along with a copy of an Auto-Reply Facsimile Transmission report from this Office acknowledging receipt of two (2) pages from Applicant on May 21, 2008. A review of the copy of the reply filed with the petition reveals that it includes a Certificate of Mailing or Transmission under 37 CFR 1.8, certifying that the reply was filed on May 21, 2008.

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 the Office of Data Management to charge the issue and publication fees and for processing into a patent in the normal course of business.

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

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

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COMMISSIONER FOR PATENTS
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New York NY 10008-0770

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OFFICE OF PETITIONS

In re Application of :
Burnside et al. : DECISION ON PETITION
Application No. 10/758,417 :
Filed: January 16, 2004 :
Atty Docket No. 20342/1202653 :
-US3 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed August 21, 2008.

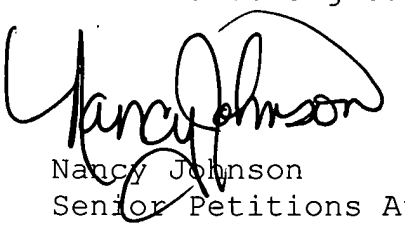
The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed November 29, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective March 1, 2008. This decision precedes the mailing of a courtesy Notice of Abandonment.

The petition includes the required reply in the form of an amendment, the required statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 1617 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed August 21, 2008.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Date : September 9, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Rahul Gupta, et al.
Application No. : 10/758,430
Filed : January 14, 2004

The above-identified application has been assigned Patent No. 6,943,046 and an issue date of September 13, 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 September 13, 2005:

> "All reference to Patent No. 6,943,046 to RAHUL GUPTA, ET AL. of CALIFORNIA for OPTIMAL BANK HEIGHT FOR INKJET PRINTING appearing in the Official Gazette of September 13, 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 3-44l (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 3-9l0 (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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COMMISSIONER FOR PATENTS
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Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

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In re Application of :
Rahul Gupta, et al. :
Application No. 10/758,430 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No.: 2003P12965US :
:

This is a decision on the petition, filed September 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 26, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2818 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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EL SEGUNDO, CA 90245

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In re Application of	:	
Schneider, Arthur J.	:	
Application No. 10/758,437	:	ON PETITION
Filed: January 15, 2004	:	
Attorney Docket No. PD-03W115	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 13, 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 fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FLETCHER YODER (CHEVRON PHILLIPS)
P.O. BOX 692289
HOUSTON, TX 77069

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APR 30 2008

OFFICE OF PETITIONS

In re Application of :
David R. Battiste :
Application No. 10/758,454 :
Filed: January 14, 2004 :
Attorney Docket No. CPCM:0005/FLE (210021) :

ON PETITION

This is a decision on the petition filed November 23, 2007 and supplemented on April 29, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed June 22, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 23, 2007.

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

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MAY 26 2004

Director's Office
Group 3700

Jeffery C. Maynard
Whiteford, Taylor & Preston L.L.P.
Seven Saint Paul Street
Baltimore, Maryland 21202

In re application of
Pien, Pao C.

Serial Number: 10/758493
Filed: January 15, 2004

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **OVER EXPANDED LIMITED-TEMPERATURE CYCLE TWO STROKE ENGINES**

This is a decision on the petition filed on January 15, 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
(703) 308-0975

rt: 5/25/04

SPE: C. Marmor II

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/12/07

Paper No.: _____

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/758,495 Patent No.: 7181261

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The requested changes at column 1, line 7; column 2, line 9 (first request); column 2, line 35; column 2, line 36; column 2, line 40; column 2, line 61 and column 12, line 26 do not apply because the language cited for correction does not appear at these column and line numbers

SPE

3735
Art Unit

ENTER IN PART

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,181,261
APPLICATION NO. : 10/758,495
ISSUE DATE : February 20, 2007
INVENTORS : Silver et al.

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

Denied At column 1, line 7, please delete "Nioelectronics," and insert -- Bioelectronics, --, therefore.

Denied At column 2, line 9, please delete "*Sylindrical*" and insert -- *Cylindrical* --, therefore.

Denied At column 2, line 35, please delete "16;" and insert -- 16: --, therefore.

Denied At column 2, line 36, please delete "((1991)." And insert -- (1991). --, therefore.

Denied At column 2, line 40, please delete "1992" and insert -- (1992) --, therefore.

Denied At column 2, line 61, please delete "Plamaz-Schartz" and insert -- Palmaz-Schatz --, therefore.

Approved At column 2, line 9, please delete "(19916)." And insert -- (1996). --, therefore.

Approved At column 2, line 46, please delete "sweat;" and insert -- sweat, --, therefore.

Approved At column 6, line 2, please delete "LABG" and insert -- IABG --, therefore.

Approved At column 12, line 61, please delete "sterits" and insert -- stents --, therefore.

Denied At column 12, line 26, please delete "tubul" and insert -- tubular --, therefore.

Approved At column 17, line 29, please delete "amplifer/filter" and insert -- amplifier/filter --, therefore.

Approved At column 19, line 17(Approx), after "an" please delete "with".

Approved At column 21, line 3(Equation), please delete "$H_2O_2 \rightarrow O_2+2H++2e^-$" and insert -- $H_2O_2 \rightarrow O_2+2H^++2e^-$ --, therefore.

Approved At column 25, lines 13-14, please delete "polytetrofluroethylene," and insert -- polytetrafluoroethylene --, therefore.

Approved At column 27, line 58(Approx), please delete "graft;" and insert -- graft, --, therefore.

Approved At column 29, line 6, after "profile is" insert -- almost flat, e.g., --.

MAILING ADDRESS OF SENDER:

Irfan A. Lateef
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. JSILVER.1CP2CP

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,181,261
APPLICATION NO. : 10/758,495
ISSUE DATE : February 20, 2007
INVENTORS : Silver et al.

Approved At column 31, line 4(under ANALYTE), please delete "**1**-methionine" and insert -- l-methionine --, therefore.

Approved At column 31, line 4(under ENZYME), please delete **1**-amino acid oxidase" and insert -- l-amino acid oxidase --, therefore.

Approved At column 31, lune 5(under ANALYTE), please delete **1**-pheylalanine" and insert -- l-pheylalanine --, therefore.

Approved At column 31, line 5(under ENZYME), please delete "**1**-amino acid oxidase" and insert -- l-amino acid oxidase --, therefore.

Approved At column 33, line 7, please delete "200**0**;" and insert -- 200**1** --, therefore.

Approved At column 33, line 21, please delete "**Inn**unosensor" and insert -- **Imm**unosensor --, therefore.

Approved At column 40, line 42(Approx), please delete "times" and insert -- times, --, therefore.

Approved At column 42, line 14, please delete "O2," and insert -- O_2, --, therefore.

Approved At column 42, line 14, please delete "CO2," and insert -- CO_2, -- therefore.

Approved At column 42, line 38 after "41.)" insert -- . --.

Approved At column 45, line 12(Approx)(Equation), please delete "(VO2)" and insert -- (VO_2) --, therefore.

Approved At column 48, line 44(Approx), In claim 1, after "metabolic" insert -- product --.

3778531/mn:joc
051707

MAILING ADDRESS OF SENDER:

Irfan A. Lateef
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. JSILVER.1CP2CP

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

OFFICE OF COUNSEL, CODE 004
NAVAL SURFACE WARFARE CENTER, CARDEROCK DIVISION
9500 MACARTHUR BLVD.
WEST BETHESDA MD 20817

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AUG 14 2007

OFFICE OF PETITIONS

In re Application of :
RIVERA, et al. :
Application No. 10/758,555 :
Filed: January 16, 2004 :
Attorney Docket No. **84,555** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **APPROVED.**

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

The request was signed by Scott R. Boalick. Scott R. Boalick has been withdrawn as 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 the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

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DEC 1 1 2006

Director's Office
Office of Patent Publication

LUXTERA, INC.
1819 ASTON AVENUE, SUITE 102
CARLSBAD CA 92008

In re Application of :
DICKINSON, ALEXANDER G. et, al :
Application No. 10/758,561 : **DECISION ON PETITION**
Filed: January 14, 2004 :
Attorney Docket No. LUX-P017 :

This is a decision on the Petition To Correct Date of Transmission Under 37 C.F. 1.8, received in the United States Patent & Trademark Office (USPTO) on November 21, 2006 which is being treated as a Petition to Withdraw Holding of Abandonment under 37 C.F.R. 1.18.

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 file a proper reply to the Office letter mailed 7/25/2006 regarding the correction of formal drawings.

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. 163.

Nina D. Motley
Quality Operations Assistant
Office of the Director
Office of Patent Publications

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

LUXTERA, INC.
1819 ASTON AVENUE
SUITE 102
CARLSBAD, CA 92008

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of :
Alexander G. Dickinson et al :
Application No. 10/758,561 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No. LUX-P017 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to submit corrected drawings on or before September 25, 2006 in reply to the Notice Regarding Drawings (Notice), mailed July 25, 2006, which set a non-extendable period for reply of one (1) month. Accordingly, this application became abandoned on September 26, 2006. A Notice of Abandonment was mailed on November 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of drawings, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of July 25, 2006 is accepted as being unintentionally delayed.

This application is being referred to Publishing Division via Technology Center AU 2883 for appropriate action on the amendments to the specification submitted February 7, 2007.

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

Frances Hicks
Petitions Examiner
Office of Petitions

Please SCAN For the RECORD.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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LUXTERA, INC.
1819 ASTON AVENUE
SUITE 102
CARLSBAD, CA 92008

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of :
Alexander G. Dickinson et al :
Application No. 10/758,561 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No. LUX-P017 :

Noted
BMW
6/4/07

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to submit corrected drawings on or before September 25, 2006 in reply to the Notice Regarding Drawings (Notice), mailed July 25, 2006, which set a non-extendable period for reply of one (1) month. Accordingly, this application became abandoned on September 26, 2006. A Notice of Abandonment was mailed on November 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of drawings, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of July 25, 2006 is accepted as being unintentionally delayed.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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

Paper No. None

BROOKS KUSHMAN P.C. / LEAR CORPORATION
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075-1238

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of
Adam Canni, Scott Shields, and Clifford Krapfl
Application No. 10/758,563
Filed: January 15, 2004
Attorney Docket No. LEAR 0660 R
Title: OVERHEAD CONSOLE FOR A VEHICLE

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 May 27, 2004.

On January 15, 2004, the application was deposited without an executed oath or declaration, identifying Adam Canni, Scott Shields, and Clifford Krapfl as joint inventors. On April 21, 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, a surcharge for its late filing as well as the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

With the instant petition, Petitioner has also submitted the associated fee, a statement of facts, a declaration which has been executed by joint inventor Shields, the surcharge, copies of letters

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.

which were sent to the non-signing inventors, and evidence of a search which was performed for non-signing inventor Krapfl.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR §1.47(a).

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

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addressees 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 returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Adam Canni
2503 Crofthill Drive
Auburn Hills, MI 48326

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Adam Canni, Scott Shields, and Clifford Krapfl :
Application No. 10/758,563 :
Filed: January 15, 2004 : LETTER
Attorney Docket No. LEAR 0660 R :
Title: OVERHEAD CONSOLE FOR A :
VEHICLE :

Dear Mr. Canni:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

cc: BROOKS KUSHMAN P.C. / LEAR CORPORATION
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075-1238

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Clifford Krapfl
1114 W. Belmont, Apt. 6
Chicago, IL 60657

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Adam Canni, Scott Shields, and Clifford Krapfl :
Application No. 10/758,563 :
Filed: January 15, 2004 : LETTER
Attorney Docket No. LEAR 0660 R :
Title: OVERHEAD CONSOLE FOR A :
VEHICLE :

Dear Mr. Krapfl:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

cc: BROOKS KUSHMAN P.C. / LEAR CORPORATION
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075-1238

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Paper No. None

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SOUTHFIELD MI 48075-1238

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MAR 12 2007

OFFICE OF PETITIONS

In re Application of :
Adam Canni, Scott Shields, and :
Clifford Krapfl :
Application No. 10/758,563 :
Filed: January 15, 2004 :
Attorney Docket No. LEAR 0660 R :
Title: OVERHEAD CONSOLE FOR A :
VEHICLE :

DECISION ON PETITION UNDER
37 C.F.R. §1.183

This is in response to the petition under 37 C.F.R. §1.183, filed February 12, 2007, requesting the waiver of 37 C.F.R. §1.172(a), to accept a supplemental reissue declaration submitted without the signature of one of the three joint inventors.

The present reissue application was filed on January 15, 2004, without an executed oath or declaration, identifying Adam Canni, Scott Shields, and Clifford Krapfl as joint inventors. On April 21, 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, a surcharge for its late filing as well as the surcharge associated with the late submission of the same. This Notice set a two-month period for reply. Consequently, a petition pursuant to Rule §1.47(a) was filed on May 27, 2004, requesting the acceptance of a declaration which was not executed by Messrs. Canni and Krapfl. A decision granting this petition was mailed on August 30, 2004, and letters were sent to each of these non-signing joint inventors.

With the present petition, Petitioner has submitted supplemental reissue declarations which have been executed by Messrs. Canni

and Shields, and has requested that the present reissue application be accepted without the executed reissue declaration of Mr. Kapfl.

The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

A discussion follows.

Applicable Rules

37 C.F.R. §1.172(a) set forth, *in toto*:

> A reissue oath must be signed and sworn to or declaration made by the inventor or inventors except as otherwise provided (see §§ 1.42, 1.43, 1.47), and must be accompanied by the written consent of all assignees, if any, owning an undivided interest in the patent, but a reissue oath may be made and sworn to or declaration made by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent. All assignees consenting to the reissue must establish their ownership interest in the patent by filing in the reissue application a submission in accordance with the provisions of § 3.73(b) of this chapter.

37 C.F.R. §1.183 sets forth, *in toto*:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

Analysis

In order to submit a grantable petition under 37 C.F.R. §1.183, Petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. *In re Sivertz*, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

Petitioner has established that an extraordinary situation exists, such that justice requires waiver of the rules. Petitioner has provided the last known address of non-signing joint inventor Krapfl, has asserted that this individual cannot be located, and has provided documentation which establishes that

a diligent search was provided for the same. Petitioner has further provided an acceptable supplemental reissue declaration.

Conclusion

The petition under 37 C.F.R. §1.183 is **GRANTED**. 37 C.F.R. §1.172(a) is hereby **WAIVED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received on November 27, 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

BROOKS KUSHMAN P.C.
INTL. AUTOMOTIVE COMPONENTS GROUP
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

In re Application of	:	
Adam J. Canni et al.	:	
Application No. 10/758,563	:	DECISION ON PETITIONS
Filed: January 15, 2004	:	PURSUANT TO 37 C.F.R.
Attorney Docket No.: IAC 0660 R	:	§§ 1.181, 1.137(A), and
Title: OVERHEAD CONSOLE FOR A VEHICLE	:	1.137(B)
	:	

This is a decision on the petition filed on August 6, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn. Petitioner concurrently submitted two conditional petitions pursuant to 37 C.F.R. §§ 1.137(a)[1] and 1.137(b)[2] to revive the above-identified application.

---

1 A grantable petition pursuant to 37 C.F.R. § 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 37 C.F.R. § 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 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

2 A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(2) 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

The petition pursuant to 37 C.F.R. § 1.181 is **DISMISSED.**

The petition pursuant to 37 C.F.R. § 1.137(a) is **DISMISSED.**

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

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed November 4, 2005, which set a shortened statutory period for reply of three months.

A first after-final amendment was received on January 4, 2006, and an advisory action was mailed on January 27, 2006.

A second after-final amendment was received on February 6, 2006, and an advisory action was mailed on March 6, 2006.

A third after-final amendment was received on March 24, 2006, along with a one-month extension of time (a two-month extension of time was required).

No additional extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on March 5, 2006. A notice of abandonment was mailed on August 2, 2007, which indicated that the submission of March 24, 2006 failed to constitute a proper reply to the final Office action.

RELEVANT LAW AND PORTIONS OF THE C.F.R. AND MPEP

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 Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

---

pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(3) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. § 1.2 sets forth, *in toto*:

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.

37 C.F.R. § 1.113 sets forth, *in toto*:

(a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicant's, or for ex parte reexaminations filed under § 1.510, patent owner's reply is limited to appeal in the case of rejection of any claim (§ 41.31 of this title), or to amendment as specified in § 1.114 or § 1.116. Petition may be taken to the Director in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Reply to a final rejection or action must comply with § 1.114 or paragraph (c) of this section. For final actions in an inter partes reexamination filed under § 1.913, see § 1.953.

(b) In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the application, clearly stating the reasons in support thereof.

(c) Reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form.

37 C.F.R. § 1.116 sets forth, *in toto*:

(a) An amendment after final action must comply with § 1.114 or this section.

(b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title):

(1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action;

(2) An amendment presenting rejected claims in better form for consideration on appeal may be admitted; or

(3) An amendment touching the merits of the application or patent under reexamination may be admitted upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.

(c) The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or reexamination

proceeding from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination prosecution from termination under § 1.550(d) or § 1.957(b) or limitation of further prosecution under § 1.957(c).

(d)

(1) Notwithstanding the provisions of paragraph (b) of this section, no amendment other than canceling claims, where such cancellation does not affect the scope of any other pending claim in the proceeding, can be made in an inter partes reexamination proceeding after the right of appeal notice under § 1.953 except as provided in § 1.981 or as permitted by § 41.77(b)(1) of this title.

(2) Notwithstanding the provisions of paragraph (b) of this section, an amendment made after a final rejection or other final action (§ 1.113) in an ex parte reexamination filed under §1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913 may not cancel claims where such cancellation affects the scope of any other pending claim in the reexamination proceeding except as provided in § 1.981 or as permitted by § 41.77(b)(1) of this title.

(e) An affidavit or other evidence submitted after a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913 but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title), may be admitted upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented.

(f) Notwithstanding the provisions of paragraph (e) of this section, no affidavit or other evidence can be made in an inter partes reexamination proceeding after the right of appeal notice under § 1.953 except as provided in § 1.981 or as permitted by § 41.77 (b)(1) of this title.

(g) After decision on appeal, amendments, affidavits and other evidence can only be made as provided in §§ 1.198 and 1.981, or to carry into effect a recommendation under § 41.50(c) of this title.

37 C.F.R. § 1.134 sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission

of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

THE PETITION PURSUANT TO 37 C.F.R. § 1.181

With the present petition, Petitioner has asserted:

> the Examiner informed the Applicants on May 1, 2006 (i.e., prior to the date of abandonment) that the application had been allowed and that a Notice of Allowance would be issued shortly...Applicants were also advised on that same date that no additional response to the final Office Action was required.

On May 3, 2006, Petitioner submitted a letter to the Office that set forth, *in toto*:

> Based on information provided by Examiner Blankenship to our office on May 1, 2006, we understand that the application has been allowed and that a Notice of Allowance will be issued shortly. Therefore, we understand that no additional response to the final Office Action mailed November 4, 2005 is required.

Petitioner received a final Office action, which rejected claim 69 under 35 U.S.C. § 102. It is clear from rules 37 C.F.R. §§ 1.116 and 1.135 that abandonment of an application is risked when the applicant proffers an amendment after the mailing of a final Office action. The rule clearly indicates that the mere filing of an amendment does not relieve applicant of the duty to take appropriate action to save the application from abandonment.

If steps are not taken after final to maintain pendency prior to the expiration of the maximum extendable period for reply, the application will go abandoned. Put another way, the submission of an after-final amendment which fails to place the application in condition for allowance will result in the abandonment of the application, unless one of the following four items is filed prior to the maximum extendable period for reply:

- a subsequent amendment which places the application in condition for allowance:
- a Notice of Appeal:
- a Request for a Continuation Application pursuant to 37 C.F.R. § 1.53(b), if applicable:
- a Request for Continued Examination pursuant to 37 C.F.R. § 1.114.

(• also a Terminal Disclaimer, if applicable.)

With the present petition, Petitioner has asserted that he did not believe that any action needed to be taken after receiving the third after-final amendment, due to a telephone conversation he purportedly had with the Examiner.

As such, it is clear that that Petitioner relied on this purported oral understanding[3]. Petitioner was in possession of a Final Rejection that set forth a rejection. The decision maker has reviewed both advisory actions that were mailed in response to the after-final amendments, and neither appears to indicate that the previously made rejection had been overcome by the corresponding after-final amendment. However, Petitioner appears to have discounted the rejection contained in the Final Rejection, based on an alleged oral understanding he had with the Examiner.

Pursuant to 37 C.F.R. § 1.2, Petitioner cannot rely on an oral assurance that was allegedly made by the Examiner, and for this reason, the present petition cannot be granted.

THE PETITION PURSUANT TO 37 C.F.R. § 1.137(A)

The Applicable Standard:

Nonawareness of a PTO rule will not constitute unavoidable delay. [4]

---

3 It is noted in passing that the submission of the letter of May 3, 2006 does not change the fact that the understanding that Petitioner purportedly had with the Examiner was an oral understanding.

4 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 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. See also Donnelley v. Dickinson, 123 Fsupp2d 456, 459.

The burden of showing the cause of the delay is on the person seeking to revive the application.[5]

"[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]

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.[8]

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present[9].

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." [10]

The actions of the attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him, the petitioner cannot later distance himself from this attorney, so as to avoid the repercussions of the actions or inactions of this selected representative, for clients are bound by the acts of their lawyers/agents, and constructively possess "notice of all facts, notice of which can be charged upon the attorney." [11]

---

5 Id.
6 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

7 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

8 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).
9 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).
10 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
11 Link at 633-634.

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." [12]

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." [13]

Analysis:

The fee that is associated with the filing of the present § 1.137(a) petition has been charged to Petitioner's Deposit Account, as authorized in the petition.

With the present petition, Petitioner has indicated he relied on an oral understanding that he purportedly had with the Examiner. Petitioner cannot act in contravention to a well-established and well-publicized Rule, and later successfully characterize the consequences of his action as "unavoidable."

As such, the present petition cannot be granted.

THE PETITION PURSUANT TO 37 C.F.R. § 1.137(B)

Analysis:

The fee that is associated with the filing of the present § 1.137(b) petition has been charged to Petitioner's Deposit Account, as authorized in the petition.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in the present petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

With the present petition, Petitioner has submitted a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114, including a request for consideration of a previously submitted amendment and payment of the RCE fee. The RCE has been accepted

12 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
13 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

as the required reply under 37 C.F.R. § 1.137(b)(1). Having made a statement which is being construed as the proper statement of unintentional delay and having submitted the petition fee, Petitioner has met all other requirements for a grantable petition under 37 C.F.R. § 1.137(b).

CONCLUSION

Jurisdiction over the present application is forwarded to the Technology Center. The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment filed on November 27, 2006 - can be processed.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[14] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

14 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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AMIN & TUROCY, LLP
1900 EAST 9TH STREET, NATIONAL CITY CENTER
24TH FLOOR
CLEVELAND OH 44114

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Cartlidge et al. :
Application No. 10/758,579 : ON PETITION
Filed: 15 January, 2004 :
Attorney's Docket No. PRP103US :

This is a decision on the petition filed on 30 July, 2004, requesting that the above-identified application be accorded a filing date of 15 January, 2004, with Figure 5 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 15 January, 2004.

Accordingly, on 22 July, 2004, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 15 January, 2004, but that Figure 5 described in the specification appeared to have been omitted.

In response, on 30 July 2004 (certificate of mailing date 26 July, 2004), the present petition and a copy of 26 sheets of drawings, including one (1) sheet containing Figure 5 described in the specification, was filed. Petitioners argue that the sheet of drawings containing Figure 5 was filed with the other application papers on 15 January, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 01/15/04, the above-identified application number, and identifies the application by the first named inventor's name, invention title and attorney docket number, and acknowledges receipt of, *inter alia*, 26 sheets of drawings. Petitioners request that the application, including one (1) sheet of drawings containing Figure 5 described in the specification, be accorded a filing date of 15 January, 2004.

A review of the record reveals that no sheet of drawings containing Figure 5 described in the specification has been located among the application papers received on 15 January, 2004. However, the evidence is convincing that the application papers deposited on 15 January, 2004, included 26 sheets of drawings, one of which included Figure 5 described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figure 5 described in the specification, is entitled to a filing date of 15 January, 2004.

The "Notice" mailed on 22 July, 2004, is vacated.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 50-1063.

The application will be processed with the copy of one (1) sheet of drawings containing Figure 5 supplied on 30 July, 2004, as a part of the original disclosure. The copies of the other drawing sheets supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 15 January, 2004, using the application papers filed on that date, and the sheet of drawings containing Figures 5 supplied with the present petition.

Telephone inquires should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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NOV 1 4 2008

In re Patent No. 7,410,073 :
Issue Date: August 12, 2008 :
Application No. 10/758,594 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. 371312002300 :

This is a decision on the petition filed October 20, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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VIERRA MAGEN MARCUS & DENIRO LLP
575 MARKET STREET SUITE 2500
SAN FRANCISCO CA 94105

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OCT 22 2008

OFFICE OF PETITIONS

In re Application of :
Lo, et al. :
Application No. 10/758,608 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No. SALU-01001US0 :

This is a decision on the petition filed on September 25, 2008, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became for failure to timely file a proper reply to the final Office action mailed on May 2, 2007. This Office action set a shortened statutory period for reply of three (3) months. Applicants filed an Amendment on July 31, 2007. However, the Amendment was not entered because it failed to place the application in condition for allowance. No further reply having been received, the application became abandoned on August 3, 2007. The Office mailed a Notice of Abandonment on September 3, 2008.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted a reply in the form of a Request for Continued Examination (RCE).

The matter is being forwarded to Group Art Unit 3737 for consideration of the RCE, filed September 25, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of :

OMAR, Ruupak Nanyamka :
Application No. 10/758,613 : DECISION ON PETITION
Filed: January 15, 2004 : TO WITHDRAW
Attorney Docket No. **0103281/0515640** : 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 15, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Andrew B. Ulmer, on behalf of all attorneys of record who are associated with customer No. 26874. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Ruupak N. Omar at the address indicated below.

There is an outstanding Office action mailed December 28, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MR. RUUPAK OMAR**
SPORT STARS INCORPORATED
18946 VICKIE AVENUE, # 294
CERRITOS, CA 90703

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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
10/758,613	01/15/2004	Ruupak Nanyamka Omar	0103281/0515640

CONFIRMATION NO. 6346

OC000000023654275

26874
FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202

Date Mailed: 05/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/15/2007.

o The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Michelle A. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

TOWNSEND, TOWNSEND and CREW, LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3834

In re Application of : NAKAYAMA
Application No. 10/758,617
Filed: January 13, 2004
For: METHOD OF CONTROLLING STORAGE DEVICE CONTROLLING APPARATUS, AND STORAGE DEVICE CONTROLLING 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 December 30, 2004 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

4/1/05

JC

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OFFICE OF PETITIONS

In re Application of :
Herron :
Application No.: 10/758,618 :
Filed: January 15, 2004 :
Attorney Docket No.: 1776-0015 :

ON PETITION

This is in response to the petition under 37 CFR 1.47(b), filed January 15, 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(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

This petition lacks items (2), (5), and (6) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. While Eugene Palazzo is a registered attorney and is authorized to sign on behalf of Xerox Corporation (Xerox), Xerox has not demonstrated a proprietary interest in the invention. See discussion of item (5) below. As such, the declaration is not acceptable at the moment.

As to item (5), Rule 47 petitioner failed to show or provide proof that Xerox has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include a copy of the employment agreement between the non-signing inventor and the Rule 47(b) applicant, a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant. Exhibit A to the petition is purportedly a copy of an employment agreement between Mr. Herron and Xerox. Exhibit A is not in the application file. Please submit another copy of Exhibit A with a reconsideration petition.

As to item (6), Rule 47 applicant failed to provide proof of irreparable damage (see MPEP 409.03(g)). A statement by Rule 47 applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

Pursuant to petitioner's authorization, deposit account no. 24-0037 will be charged $130.00, which was the petition fee due on January 15, 2004.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of
Herron
Application No.: 10/758,618
Filed: January 15, 2004
Attorney Docket No.: 1776-0015

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(b)

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed May 18, 2009 (certificate of mailing date May 12, 2009).

The petition is **granted.**

Petitioner has shown that the non-signing inventor, Stephen K. Herron, has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being returned to Technology Center A.U. 2624.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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STEPHEN K. HERRON
231 EIGHT MILE POINT ROAD
ORILLA, ONTARIO
CANADA L3V6H1

MAILED

JUN 17 2009

OFFICE OF PETITIONS

In re Application of :
Herron :
Application No.: 10/758,618 : LETTER
Filed: January 15, 2004 :
Attorney Docket No.: 1776-0015 :

Dear Mr. Herron:

You are named as the sole inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEYS OF RECORD: MAGINOT, MOORE & BECK LLP
111 MONUMENT CIRCLE
SUITE 3250
INDIANAPOLIS IN 46204

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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JUN 0 9 2009

OFFICE OF PETITIONS

In re Application :
Wernet :
Application No. 10/758,644 : PATENT TERM ADJUSTMENT
Filed: January 15, 2004 :
Dkt. No.: 07588/026003 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705." This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(b). The application for patent term adjustment was timely filed January 28, 2009, along with issue fee payment.

Applicant does not dispute the adjustment of to date of zero days (adjustment totalling 175 days for Office delays less reductions totalling 334 days for applicant delays). Instead, applicant contests the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

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.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Patent No. 7,556,801
Issued: July 7, 2009
Application No. 10/758,644
Filed: January 15, 2004
Dkt. No.: 07588/026003

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on September 4, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 595 days. Patentees request this adjustment on the grounds that the Office failed to issue the patent within three years of its filing date and also advise that 595 days, rather than 484 days, is the correct amount of applicant delay.

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 595 days is **GRANTED**.

The "A delay" totals 215 days. The "B delay" totals 904, as argued. The amount of overlap between the two periods totals 40 days.

The applicant delay is 484 days, as advised; the Office having neglected to assess a reduction of 108 days in accordance with 37 CFR 1.704(c)(7) in connection with the reply filed August 18 , 2006 and the Office having neglected to assess a reduction of 42 days in accordance with 37 CFR 1.704(c)(8) in connection with the information disclosure statement filed June 27, 2007.

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 595 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 : 7,556,801

DATED : **July 7, 2009** **DRAFT**

INVENTOR(S) : Wernet

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 570 days

Delete the phrase "by 570 days" and insert – by 595 days--

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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AUG 2 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Peffly, et al.	:	
Application No. 10/758,656	:	ON PETITION
Filed: January 15, 2004	:	
Attorney Docket No.: 9144	:	

This is a decision on the petition under 37 CFR 1.182, filed March 13, 2006, requesting that a priority claim to foreign application WO 03/105793, international filing date June 10, 2003, be entered.

The petition is **dismissed**.

Application serial number 10/758, 656 was filed on January 15, 2004. It is noted that a claim of priority under 37 CFR 1.78(a)(1) was made to application 10/464,171 and under 37 CFR 1.78(a)(5) to provisional application 60/441,066 on the first page of the specification. No reference to foreign application WO 03/105793 is noted, however. The instant petition is now being filed requesting that the priority claim to foreign application WO 03/105793 be entered. Petitioner maintains that, because application 10/464,171 and foreign application WO 03/105793 are the same, by making a priority claim to 10/464,171 petitioner also made a priority claim to the subject foreign application.

Section 1.55 of the Code of Federal Regulations provides, in pertinent part, that:

> **37 CFR 1.55 Claim for foreign priority.**
>
> (a) An applicant in a nonprovisional application may claim the benefit of the filing date of one or more prior foreign applications under the conditions specified in 35 U.S.C. 119(a) through (d) and (f), 172, and 365(a) and (b).
>
> (1)
>
> (i) In an original application filed under 35 U.S.C. 111(a), the claim for priority must be presented during the pendency of the application, and 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. This time period is not extendable. The claim must identify the 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 specifying the application number, country (or intellectual property authority), day, month, and year of its filing. The time periods in this paragraph do not apply in an application under 35 U.S.C. 111(a) if the application is:
>
> (A) A design application; or

(B) An application filed before November 29, 2000.

(ii) In an application that entered the national stage from an international application after compliance with 35 U.S.C. 371, the claim for priority must be made during the pendency of the application and within the time limit set forth in the PCT and the Regulations under the PCT.

(2) The claim for priority and the certified copy of the foreign application specified in 35 U.S.C. 119(b) or PCT Rule 17 must, in any event, be filed before the patent is granted. If the claim for priority or the certified copy of the foreign application is filed after the date the issue fee is paid, it must be accompanied by the processing fee set forth in § 1.17(i), but the patent will not include the priority claim unless corrected by a certificate of correction under 35 U.S.C. 255 and § 1.323

(3) The Office may require that the claim for priority and the certified copy of the foreign application be filed earlier than provided in paragraphs (a)(1) or (a)(2) of this section:

(i) When the application becomes involved in an interference (see § 41.202 of this title),

(ii) When necessary to overcome the date of a reference relied upon by the examiner, or

(iii) When deemed necessary by the examiner.

(4)

(i) An English language translation of a non-English language foreign application is not required except:

(A) When the application is involved in an interference (see § 41.202 of this title),

(B) When necessary to overcome the date of a reference relied upon by the examiner, or

(C) When specifically required by the examiner.

(ii) If an English language translation is required, it must be filed together with a statement that the translation of the certified copy is accurate.

The claim of priority to the foreign application has not been filed within the period prescribed by 37 CFR 1.55(a)(1)(i). The claim of priority can still be made pursuant to 37 CFR 1.55(c) which provides in pertinent part that:

(c) Unless such claim is accepted in accordance with the provisions of this paragraph, any claim for priority under 35 U.S.C. 119(a)(-d) or 365(a) not presented within the time period provided by paragraph (a) of this section is considered to have been waived. If a claim for priority under 35 U.S.C. 119(a)(-d) or 365(a) is presented after the time period provided by paragraph (a) of this section, the claim may be accepted if the claims identifying the prior foreign application by specifying its application number, country (or intellectual property authority), and the day, month, and year of its filing was unintentionally delayed. A petition to accept delayed claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) must be accompanied by:

(1) The claim under 35 U.S.C. 119(a)-(d) or 365(a) and this section to the prior foreign application, unless previously submitted;

(2) The surcharge set forth in § 1.17(t), and
(3) A statement that the entire delay between the date the claim was due under paragraph (a0(1) of this section 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.

Petitioner must file a petition under 37 CFR 1.55(c) in order for the priority claim to foreign application WO 03/105793 to be entered. The claim of priority to the foreign application will not be entered at this juncture, and the petition under 37 CFR 1.182 is dismissed.

Deposit account 16-2480 will be charged the $400.00 petition fee. See 37 CFR 1.182.

The application is being directed to Technology Center 1700, GAU 1751 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI OH 45224

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OFFICE OF PETITIONS

In re Application of :

Peffly, et al. :

Application No. 10/758,656 : DECISION DISMISSING

Filed: January 15, 2004 : PETITION UNDER 37 CFR 1.55(c)

Attorney Docket No. 9144

This is a decision on the petition under 37 CFR 1.55(c), filed September 20, 2006, requesting that a priority claim to WO application publication number 2003/105793, international filing date June 10, 2003, be entered.

The petition is **DISMISSED**.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) the non-provisional 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 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.

The petition lacks item (2).

The priority claim to WO application publication number 2003/105793 is made in an Application Data Sheet (ADS). The ADS is defective for the following reasons: 1) it cites the filing date for the foreign application as December 24, 2003, but the filing date is actually June 10, 2003; 2) it fails to mention priority to provisional application 60/441,066 to which non-provisional application 10/758,656 made a priority claim on filing, 3) it seeks to claim benefit under 35 U.S.C. 119(e) to the non-provisional application 10/464,711 which is improper because 35 U.S.C. 119(e) only applies to claiming benefit to provisional applications, and 4) the ADS does not specify the application number but instead references the publication number.

It is further noted that the priority claim to non-provisional application 10/464,171 made in the first sentence of the specification is defective in that no relationship between nonprovisional application 10/758,656 and 10/464,171 is stated. 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed co-pending nonprovisional applications must contain or be amended to contain references to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. Accordingly, a petition under 37 CFR 1.78(a)(3) must be filed in order to recognize priority to application 10/464,171.

The surcharge for the petition in the amount of $1370.00 will be charged to deposit account 16-2480.

A petition under 37 CFR 1.78(a)(3) making a proper priority claim to application 10/464,171 and a renewed petition under 37 CFR 1.55 should be filed that is accompanied by an Application Data Sheet that addresses the deficiencies noted above.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222.

Anthony Knight
Supervisor
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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RUBEN C. DeLEON
WINSTEAD SECHROST & MINICK P.C.
P. O. BOX 50784
DALLAS, TEXAS 75201

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OFFICE OF PETITIONS

In re Application of
Ronny Crawford et al.
Application No. 10/758,657
Filed: January 15, 2004
Attorney Docket No. 33343.4

DECISION ON PETITION
UNDER 37 CFR 1.137(b) and 1.78(a)(6)

A. Petition under 1.137(b)

This is a decision on the petition under 37 CFR §1.137(b), filed February 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned, by operation of law, for failure to timely reply within the two-month reply period set in the Notice to file Missing Parts of a Non-provisional Application (Notice) mailed April 20, 2004. No extensions of time have been obtained pursuant to the provisions of 37 CFR §1.136(a). The date of abandonment of this application was June 21, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the reply (missing signature, fee and substitute specification); (2) the petition fee of $750.00 (for a small entity); and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed April 20, 2004 is accepted as having been unintentionally delayed.

B. Petition under 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 17, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition satisfies the above requirements. Accordingly, the claim for priority is accepted as having been 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 instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Angela Ortiz at (571) 272-6051 or the undersigned at (571)272-3217. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Office of Initial Patent Examination to complete processing of the application.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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JONES DAY
222 East 41st Street
New York NY 10017

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JUL 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Jeannette Whitcomb	:	ON REQUEST FOR
Application No. 10/758683	:	RECONSIDERATION OF
Filed: 01/14/2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
11068-078-999	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b), filed May 22, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 1295 days, not 327 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant 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 is unable to 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, 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 Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[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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JONES DAY
222 East 41st Street
New York, NY 10017

Mail Date: 04/21/2010

Applicant	: Jeannette Whitcomb	: DECISION ON REQUEST FOR
Patent Number	: 7579143	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/758,683	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1249** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Andreas H. von Flotow	: DECISION ON REQUEST FOR
Patent Number	: 7602415	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/758,684	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MERCHANT AND GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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APR 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Kim R. SMITH	:	
Application No. 10/758,688	:	DECISION ON PETITION
Filed: January 15, 2004	:	TO WITHDRAW
Attorney Docket No. 163.1836US01	:	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 January 4, 2007 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

Commissioner for Patents
United States Patent and Trademark Office
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198F 27th Cross 3rd Block Jayanagar
Bangalore 56001-1 IN INDIA

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DEC 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Raman et al.	:	
Application No.: 10/758689	:	DECISION ON
Filing or 371(c) Date: 01/15/2004	:	PETITION
Attorney Docket Number: 1864.004US1	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," filed November 9, 2007. The petition is properly treated under 37 CFR 1.181.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action. Mailed November 3, 2006. The Notices set a three (3) month period for reply. No reply having been received, the application became abandoned February 4, 2007, A Notice of Abandonment was mailed May 18, 2007.

Petition under 37 CFR 1.181

Applicant files the presnet petition and requests withdrawal of the holding of abandonment because the "Notice, mailed March 11, 2006 was not received." Applicant states that a search of the file jacket and docket records indicates that the Office communication was not received. Applicant alsi files a copy of the docket record where the non-received Office [communication] would have been entered had it been received.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied)

MPEP 711.03(c)

Analysis

A review of Office records reveals that the Office action, mailed November 3, 2006 was mailed to a correspondence address of record. Office records also reveal that the Office action was returned as undeliverable to this Office by the United States Post Office on November 6, 2006. Office records further reveal that a Change of Correspondence Address was filed on July 13, 2007.

In view of the above, 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.

The petition to withdraw the holding of abandonment is dismissed without prejudice. Applicant should file a request for reconsideration of petition and include a statement as to when the correspondence address change was effectuated.

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 petition 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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Alexandria, VA 22313-1450
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198F 27th Cross 3rd Block Jayanagar
Bangalore 56001-1 IN INDIA

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MAR 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Raman et al.	:	
Application No.: 10/758689	:	DECISION ON
Filing or 371(c) Date: 01/15/2004	:	PETITION
Attorney Docket Number: 1864.004US1	:	

This is a decision in response to the "Renewed Petition Under 37 CFR 1.181 to Withdraw Holding of Abandonment," filed February 7, 2008.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action. Mailed November 3, 2006. The Notices set a three (3) month period for reply. No reply having been received, the application became abandoned February 4, 2007, A Notice of Abandonment was mailed May 18, 2007.

November 9, 2007 Petition under 37 CFR 1.181

Applicant files the present petition and requests withdrawal of the holding of abandonment because the "Notice, mailed March 11, 2006 was not received." Applicant states that a search of the file jacket and docket records indicates that the Office communication was not received. Applicant also files a copy of the docket record where the non-received Office [communication] would have been entered had it been received.

December 14, 2007 Decision dismissing petition

A Decision dismissing the petition was mailed December 14, 2007. The Decision noted that a review of Office records revealed that the Office action, mailed November 3, 2006 was mailed to a correspondence address of record. Office records further revealed that the Office action was returned as undeliverable to this Office by the United States Post Office on November 6, 2006.

Finally, Office records revealed that a Change of Correspondence Address was filed on July 13, 2007.

In view of the above, it was unclear as to exactly when the correspondence address change was effectuated, and as such, there existed 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.

The petition was dismissed without prejudice. Applicant was advised to file a request for reconsideration of petition and include a statement as to when the correspondence address change was effectuated.

The present renewed petition

Applicant files the present renewed petition and includes a statement that a search of the file jacket and docket records indicates that the Office action was not received. Applicant also includes copies of the docket record.

Applicant has not provided any information as to when the change of address actually occurred.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
> Practitioner must state that the Office action was not received **at the correspondence address of record**, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

MPEP 711.03(c)

Analysis

As stated above, Office records reveal that the Office action, mailed November 3, 2006 was mailed to a correspondence address of record. Office records further reveal that the Office action was returned as undeliverable to this Office by the United States Post Office (USPS) on November 6, 2006. Office records also reveal that a Notice of Abandonment was mailed on May 18, 2007, and was also returned as undeliverable by the USPS on May 29, 2007. Thereafter, Applicant filed a Change of Correspondence Address on July 13, 2007.

In view of the fact that both the Office action and the Notice of Abandonment were returned as undeliverable by the USPS, and thereafter Applicant filed a change of correspondence, there are circumstances that point to a conclusion that nonreceipt of the Office action was due to Applicant's failure to timely file a change of correspondence address as required by 37 CFR 11.11.

Where an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). See 37 CFR 11.11.

In this instance, Applicant has failed to state that the Office action was not received at the correspondence address of record. Moreover, Applicant has failed to state, as requested in the Decision dismissing the November 9, 2007 petition, when the correspondence address change was effectuated.

Applicant should file a renewed petition and state, over his registration number, when the address of Applicants changed. Applicant must demonstrate that the correspondence address was correct at the time the Office action was mailed.

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Director's decision will be based solely on the administrative record in existence.

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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 petition 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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JUN 26 2008

OFFICE OF PETITIONS

In re Application of
Raman et al.
Application No.: 10/758689
Filing or 371(c) Date: 01/15/2004
Attorney Docket Number: 1864.004US1

DECISION ON
PETITION

This is a decision in response to the petition under 37 CFR 1.137(b), filed April 17, 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 non-final Office action. mailed November 3, 2006. The Notices set a three (3) month period for reply. No reply having been received, the application became abandoned February 4, 2007, A Notice of Abandonment was mailed May 18, 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.

The application is being referred to Technology Center Art Unit 2621 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

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Alexandria, VA 22313-1450
www.uspto.gov

Friedrich Kueffner
Suite 910
317 Madison Avenue
New York, NY 10017

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MAR 19 2008

OFFICE OF PETITIONS

In re Application of :
Andreas Wieners :
Application No. 10/758,691 : ON PETITION
Filed: January 15, 2004 :
Attorney Docket No. RW-150 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 2007, to revive the above-identified application. .

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action mailed January 18, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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). Since the amendment submitted on October 29, 2007, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy Copy of the Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/758,691	**Applicant(s)** WIENERS, ANDREAS	
	Examiner PHONG H. NGUYEN	**Art Unit** 3724	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: At least the phrases "operative based on the induction" and "wherein there is no preheating of the foil to be cut or subsequent cooling" in claims 1, 7 and 8 changes the scope of the claims and therefore presents possible new issues that require further search and consideration since claims 1, 7 and 8 are not obviously allowable over prior art.

   . (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1-10.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Application No.

/P. H. N./
Examiner, Art Unit 3724

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Friedrich Kueffner
Suite 910
317 Madison Avenue
New York, NY 10017

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OCT 28 2008

OFFICE OF PETITIONS

In re Application of :
Andreas Wieners :
Application No. 10/758,691 : ON PETITION
Filed: January 15, 2004 :
Attorney Docket No. RW-150 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 21, 2008, to revive the above-identified application. .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and $255 fee; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, 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 is being referred to Technology Center AU 3724 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Patent No. 7,152,456 :
Issued: December 25, 2006 :
Application No. 10/758,697 : ON PETITION
Filed: January 14, 2004 :
Attorney Docket No: ROMINC.044A :

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed January 23, 2007 under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and has been charged to deposit account no. 11-1410. The petition is **GRANTED** and status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL WINFIELD GOLTRY
4000 N. CENTRAL AVENUE, SUITE 1220
PHOENIX AZ 85012

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of
Alhamad
Application No. 10/758,714
Deposited: January 16, 2004
Attorney Docket No. 4429-A6CIC2
For: CONSTRUCTION MATERIAL CONTAINING EXPANDED FLEXIBLE MATERIAL

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed September 15, 2004 (certificate of mailing date September 13, 2004), requesting that the above-identified application be accorded a filing date of January 16, 2004.

The petition under 37 CFR 1.53(e) is GRANTED.

The application was deposited on January 16, 2004. On August 3, 2004, the Office of Initial Patent Examination mailed a Notice informing applicant that no filing date had been accorded to the application papers deposited on January 16, 2004 because no specification and no drawing were present, as is required by 35 U.S.C. 112 and 113, respectively.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the above-identified application be accorded a filing date of January 16, 2004 on the basis that a specification containing claims and several sheets of drawing figures were received in the Patent and Trademark Office (PTO) on January 16, 2004. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing January 16, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 45 pages of specification, 2 pages of claims, 1 page of abstract, and 12 pages of drawings.

The non-annotated return postcard receipt constitutes *prima facie* evidence that the itemized components were filed on January 16, 2004. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, the $130 petition fee submitted on September 15, 2004 (certificate of mailing date September 13, 2004) will be refunded via a treasury check that will be scheduled shortly.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **January 16, 2004**, using the copy of the 45 pages of specification, 2 pages of claims, 1 page of abstract, and 12 pages of drawings submitted with the instant petition. Office records will be corrected to show that these items were present on filing.

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.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: MICHAEL W. GOLTRY
340 EAST PALM LANE, SUITE 260
PHOENIX, AZ 85044

UNITED STATES PATENT AND TRADEMARK OFFICE

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: David R. Dodds	: DECISION ON REQUEST FOR
Patent Number	: 7625135	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/758,734	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1203** 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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Schwartz Law Firm, P.C.
South Park Towers
Suite 530
6100 Fairview Road
Charlotte NC 28210

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AUG 22 2008

OFFICE OF PETITIONS

In re Application of :
Lee Mantis :
Application No. 10/758754 :
Filing or 371(c) Date: 01/16/2004 :
Attorney Docket Number: :
135/2 : ON PETITION

This is a decision on the "Petition to Commissioner to Withdraw Holding of Abandonment," filed April 15, 2008. The petition is properly treated under 37 CFR § 1.181(a). The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely/properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability, mailed November 28, 2007. The Notices set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on February 29, 2008. A Notice of Abandonment was mailed March 25, 2008.

Applicant's Assertion

Applicant files the present petition and asserts that a timely reply to the Notice, to wit – the issue, was filed on February 28, 2007. Applicant provides that as a result of a typographical error the date entered on the Certificate of Mailing was mistakenly indicated as February 29, 2008. In support of this assertion, Applicant files a copy of his return-receipt postcard and a copy of the check that accompanied the form, both of which are dated February 28, 2008.

Applicable Law, Rules and MPEP

37 CFR 1.8(a), Certificate of mailing or transmission, states in relevant 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;
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6 (d); or
> (C) Transmitted via the Office electronic filing system in accordance with § 1.6(a)(4); and
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The MPEP 512, Certificate of Mailing or Transmission, states in relevant 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. (Emphasis supplied).

Id.

Analysis

The date on the Certificate of Mailing appearing on the Issue Fee Transmittal Form is February 29, 2008. The return-receipt postcard filed to support the assertion that the issue fee was submitted, does not contain a USPTO date stamp indicating that the Issue Fee was received prior to February 29, 2008. The date on the check is evidence only of the date of execution of the check, and not evidence that the check was filed on February 28, 2008. The Declaration of Kristen Bryant is not more persuasive than the application papers located in the file.

Conclusion

Applicant has failed to demonstrate that the procedures of 37 CFR 1.8(a) were followed such that the Issue Fee would be considered timely filed on February 28, 2008. The petition is dismissed.

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 matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Schwartz Law Firm, P.C.
South Park Towers
Suite 530
6100 Fairview Road
Charlotte NC 28210

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OCT 07 2008

OFFICE OF PETITIONS

In re Application of :
Lee Mantis :
Application No. 10/758754 :
Filing or 371(c) Date: 01/16/2004 :
Attorney Docket Number: :
135/2 : ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 26, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely/properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability, mailed November 28, 2007. The Notices set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on February 29, 2008. A Notice of Abandonment was mailed March 25, 2008.

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 (submitted March 4, 2008); (2) the petition fee; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this 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/
Derek L. Woods
Attorney
Office of Petitions

CC: JEFFREY J. SCHWARTZ
6100 FAIRVIEW ROAD
SUITE 1135
CHARLOTTE, NC 28210

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/14/08 Paper No.: _____

TO SPE OF : ART UNIT 3636 (DONNY DAVID, SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/758762 Patent No.: 7240685

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ Approved	All changes apply.
☐ Approved in Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Comments: _____

DAVID DUNN
SUPERVISORY PATENT EXAMINER
SPE

3636
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of
Humphries, et al.
Application No. 10/758,769
Filed: January 16, 2004
Attorney Docket No. SKY03008

ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed May 18, 2007.

The petition under 37 CFR 1.181(a) is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the final Office action mailed July 18, 2006. The notice set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on October 18, 2006. A Notice of Abandonment was mailed on March 19, 2007.

Petitioner maintains that the notice was never received and that the holding of abandonment should be withdrawn, accordingly.

A review of the application file and the Office computer records reveals that on July 18, 2006, (the date the notice was mailed), the address of record was cited as "WorldCom, Inc., Technology Law department, 1133 19th Street, NW, Washington, DC 20036." The notice was mailed to this address and was not returned to the USPTO as undeliverable. On March 22, 2007, the correspondence address for the application was changed to " Verizon, Patent Management Group, 151 N. Courthouse Road, Suite 500, Arlington, Virginia 2201-2909." It is noted that the petition cites a third address. Petitioner argues that the holding of abandonment should be withdrawn because the notice was not received.

Petitioner's argument is not persuasive. Petitioner has not demonstrated that "WorldCom, Inc., Technology Law department, 1133 19th Street, NW, Washington, DC 20036" was the correct address of record on the date the notice was mailed. Applicants are required to provide the USPTO with a timely notification of a change of correspondence address and withdrawal of a holding of abandonment would not be appropriate when a notice is mailed, but there was a material change in a correspondence address and petitioner failed to provide timely notice same. Petitioner must either demonstrate that the final Office action was not received at "WorldCom, Inc., Technology Law department, 1133 19th Street, NW, Washington, DC 20036" or that petitioner notified the USPTO of the change of correspondence address to " Verizon, Patent Management Group, 151 N. Courthouse Road, Suite 500, Arlington, Virginia 2201-2909" prior to the mailing of the non-final Office action and the non-final Office action was not received at that address.

Petitioner may file a petition under 37 CFR 1.137(b) to revive the application. The fee for the petition is $1500.00 large entity or $750.00 for a small entity.

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 of record until appropriate written instructions to the contrary are received.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc:
Phouphanomketh Ditthavong
Ditthavong Mori & Steiner, P.C.
918 Prince Street
Alexandria, VA 22314

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ARLINGTON, VA 22201-2909

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DEC 25 2007

OFFICE OF PETITIONS

In re Application of :
Humphries, et al. :
Application No.: 10/758,769 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No: SKY 03008 :

This is in response to the petition under 37 CFR 1.137(b) filed September 4, 2007.

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 file timely and proper response to the final Office action mailed July 18, 2006, which set 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 response was not received within the allowable period and the application became abandoned on October 19, 2006. A Notice of Abandonment was mailed on March 19, 2007.

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.

As to item (1) above, Examiner Richard Franklin has determined that the response filed September 4, 2007, does not place the application in condition for allowance[1]. The petition must be dismissed because of the lack of a proper response to the final Office action mailed July 18, 2006. The renewed petition must accompanied by a proper response to the final Office action, which may include an amendment that places the application in condition for allowance or Request for Continued Examination under 37 CFR 1.114. Questions regarding the determination of the sufficiency of the reply filed November 16, 2006, should be directed to Examiner Franklin.

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 of record until appropriate written instructions to the contrary are received.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc:
Phouphanomketh Ditthavong
918 Prince Street
Alexandria, VA 22314

[1] Examiner Franklin has indicated that the amendment does not place the application in condition for the allowance because amendments to independent claims 18 and 15 would require further search and consideration.

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of

Humphries, et al.

Application No. 10/758,769

Filed: January 16, 2004

Attorney Docket No. SKY 03008

: DECISION ON PETITION

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 renewed petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely response to the final Office action mailed July 18, 2006, which set a shortened statutory period for reply of three-months from its mailing date. A response was not filed within the allowable period. The application became abandoned on October 19, 2006. A Notice of Abandonment was mailed on March 19, 2007.

The Request for Continued Examination filed January 9, 2008, is noted.

The petition fee was remitted twice. The amount of $1540.00 will be refunded, in due course.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center 2100, GAU 2181 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:
Phouphanomketh Ditthavong
918 Prince Street
Alexandria, VA 22314

26 APR 2004

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AKIN GUMP STRAUSS HAUER & FELD LLP
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, PA 19103-7013

In re Application of:
SMALL, David, B., et al.
U.S. Application No.: 10/758,779
Filing Date: 16 January 2004
Attorney's Docket No.: 9968-23U1
For: INTERACTIVE BOOK READING SYSTEM USING RF SCANNING CIRCUIT

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This decision is issued in response to the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 16 January 2004. Applicants have paid the required petition fee.

BACKGROUND

International application PCT/US02/14745 became abandoned with respect to the United States under 35 U.S.C. 371(d) at midnight on 11 November 2003 (thirty days after the priority date)

On 16 January 2004, applicants filed the present application under 35 U.S.C. 111(a) as a continuation of international application PCT/US02/14745, and the petition to revive considered herein. The petition to revive was filed for the purpose of establishing continuity between the international application and the present continuation application. Upon the receipt of the submission, the USPTO initiated a separate national stage application file for the international application; this national stage file was assigned application number 10/484,344.

DISCUSSION

All the requirements for revival under 37 CFR 1.137(b) have been submitted. The petition states that "the delay in filing such a U.S. National Phase application or such a U.S. continuation application was inadvertent and resulted from a breakdown in communication between the Applicant and the undersigned representative. The petition is being filed under 37 CFR 1.137(b), as the abandonment was unintentional." This statement is interpreted as the statement required under 37 CFR 1.137(b)(3), that is, a statement that "the entire delay in filing the required reply from the due date of the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." If this is not a correct interpretation of the petition, applicants **must** inform this Office immediately.

The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP section 711.03(c). International application PCT/US02/14745 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/758,779.

Applicant's 16 January 2004 submission did not indicate the intent to initiate a separate national stage application in addition to the present continuing application. Accordingly, U.S. application file 10/484,344, created by the USPTO as a national stage of PCT/US02/14745 upon receipt of the present petition to revive, is appropriately discontinued.

CONCLUSION

Applicants' petition to revive the application under 37 CFR 1.137(b) is **GRANTED**.

International application PCT/US02/14745 is being revived for purposes of continuity only, and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/758,779.

As discussed above, U.S. application number 10/484,344 will be discontinued. All future correspondence with respect to this application should be directed to application number 10/758,779.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Lev Borisovich Nachmanson	: DECISION ON REQUEST FOR
Patent Number	: 7590520	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/758,797	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **863** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of :
Kahn et al. : DECISION ON PETITION
Application No. 10/758811 :
Filed: 01/16/2004 :
Atty Docket No. PD-200290 :

This is a decision on the petition, filed on 1 May, 2007, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 17 January, 2005. 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.

The statement contained in the instant petition does not set forth that the entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition 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.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 18 October, 2007, is enclosed herewith.

The application is being referred to Technology Center Art Unit 2131 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/758,811	01/16/2004	Raynold M. Kahn	PD-200290

CONFIRMATION NO. 6578

20991
THE DIRECTV GROUP INC
PATENT DOCKET ADMINISTRATION RE/R11/A109
P O BOX 956
EL SEGUNDO, CA 90245-0956

Date Mailed: 07/10/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 10/18/2007.

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".

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CA / LA1 / A109
2230 E. IMPERIAL HIGHWAY
EL SEGUNDO, CA 90245

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FEB 25 2009

OFFICE OF PETITIONS

In re Application of Kahn et al. :
Application No. 10/758,811 : Decision on Petition
Filing Date: January 16, 2004 :
Attorney Docket No. PD-200290 :

This is a decision on the petition under 37 CFR 1.182, filed September 4, 208, to withdraw the terminal disclaimers filed March 4, 2008, in the above-identified application.

The petition is **dismissed**.

MPEP 1490 sets forth in pertinent part, "Petitions 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."

Inspection of the prosecution history of the instant application reveals that the terminal disclaimers were submitted to overcome rejections for obvious double patenting over amended claims 1-18 and 28-31 of copending Application No. 10/758,865 and claims 1-39 of Patent No. 7,203,314.

It is clear that petitioners are seeking to reopen the question of the propriety of the rejection made in the Office action of December 4, 2007. In essence, petitioner is attempting, by petition, to have the Office determine whether the double patenting rejection was proper.

It is the long-established policy of the Patent and Trademark Office to maintain the line of demarcation between petitionable and appealable subject matter. MPEP 1201. When the question of whether or not a given set of claims in one application or patent is distinct, or lies within the aegis of 35 USC 121, from another set of claims in another application or patent with respect to obviousness double patenting arises, that question relates to the merits of an invention, and the appropriate remedy for resolution of that issue ultimately lies by appeal as provided by statute. See e.g. In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985). As noted by the court in In re Faust, 378 F.2d 966, 153 USPQ 813 (CCPA 1967) "the terminal disclaimer eliminates the necessity of considering what are most often exceedingly difficult questions. i.e., whether the subject matter of the appealed claims is obvious in view of the patent claims relied on as the basis for 'double patenting,' thus conserving judicial man hours both here and in the Patent Office." Further, it is well settled that the Commissioner will not, on petition, usurp the

functions or impinge upon the jurisdiction of the Board. See In re Dickerson, 299 F.2d 954, 958, 133 USPQ 39, 43 (CCPA 1962); Bayley's Restaurant v. Bailey's of Boston, Inc., 170 USPQ 43, 44 (Comm'r Pat. 1971).

Even assuming, *arguendo*, the relief requested should be considered on petition, petitioner is reminded that, as a general rule, public policy does not favor the restoration to the patentee [applicant] of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner, e.g., intervening rights in the case of a reissue patent. See Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935). Petitioner has failed to provide a reasonable, much less any, assurance that the public interest will, or can be, protected if the relief requested in this petition are given favorable consideration. In this regard, an applicant's use, and Office acceptance, of a terminal disclaimer is in the public interest because such encourages the disclosure of additional developments, the earlier filing of patent applications, and the earlier expiration of patents whereby the inventions covered become freely available to the public. See In re Jentoft, 392 F.2d 633, 157 USPQ 363 (CCPA 1968). It is brought to petitioner's attention that the principle against recapturing something that has been intentionally dedicated to the public dates back at least to Leggett v. Avery, 101 U.S. 246 (1879). While petitioner may now consider the previously filed disclaimers to be unnecessary, or unnecessarily limiting, petitioner is, nevertheless, confronted with what has been characterized as "an unhappy circumstance," rather than a circumstance(s) necessitating relief. Jentoft at 639 n. 6, 157 USPQ at 368 n. 6.

Petitioner had the opportunity to challenge the need for terminal disclaimers, on appeal, but instead freely chose to file terminal disclaimers to avoid the rejection. Moreover, petitioners has provided no explanation as to why filing of the terminal disclaimers, as opposed to contesting the propriety of the rejection, was caused or contributed to by circumstances beyond petitioner's control.

Petitioner may wish to take note of MPEP 1490 which states in part, "The filing of a continuation application other than a CPA, while abandoning the application in which the terminal disclaimer has been filed, will typically nullify the effect of a terminal disclaimer."

A petition fee of $400 is required for a petition under 37 CFR 1.182. Therefore, $400 has been charged to petitioner's deposit account.

Technology Center Art Unit 2436 will be informed the terminal disclaimers have not been withdrawn and the application, including the amendment filed September 4, 2008, will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Kahn, et al. :
Application No. 10/758,818 :
Filed: January 16, 2004 :
Attorney Docket No. PD200292 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 1, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 17, 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 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

This application is being forwarded to Technology Center Art Unit 2100 for examination in due course.

Kenya A. McLaughlin
Petitions Attorney
Office of Petition

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/758,818	01/16/2004	Raynold M. Kahn	PD-200292

CONFIRMATION NO. 6585

20991
THE DIRECTV GROUP INC
PATENT DOCKET ADMINISTRATION RE/R11/A109
P O BOX 956
EL SEGUNDO, CA 90245-0956

Date Mailed: 07/19/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 10/25/2007.

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".

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INTELLECTUAL PROPERTY / TECHNOLOGY LAW
PO BOX 14329
RESEARCH TRIANGLE PARK, NC 27709

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OFFICE OF PETITIONS

In re Application of :
Philip S.H. Chen, et al. :
Application No. 10/758,825 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. 2771-546-CIP3 :

This is a decision on the petition filed June 6, 2006 under 37 CFR 1.137(b) to revive the above-identified application. This is also a decision on the petition filed October 3, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue.

The petitions are **GRANTED**.

The application became abandoned for a failure to pay the issue fee on or before June 2, 2006. The present decision precedes the mailing of a Notice of Abandonment.

The petition under 37 CFR 1.137(b) includes (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Accordingly, the petition is found to comply with the requirements of 37 CFR 1.137(b).

The petition under 37 CFR 1.313(c)(2) includes, *inter alia*, (1) the petition fee of $130; (2) a Request for Continued Examination (RCE); and (3) an Information Disclosure Statement (IDS). Accordingly, the petition is found to comply with the requirements of 37 CFR 1.313(c)(2).

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 6, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

[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. 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.**

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being forwarded to Technology Center AU 2856 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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OFFICE OF PETITIONS

INTELLECTUAL PROPERTY / TECHNOLOGY LAW
PO BOX 14329
RESEARCH TRIANGLE PARK NC 27709

In re Application of :
Philip S.H. Chen, et al. :
Application No. 10/758,825 : DECISION GRANTING PETITION
Filed: January 16, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2771-546-CIP3 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 7, 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 22, 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 2856 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/30/2010

Applicant	: William Robert Mass	: DECISION ON REQUEST FOR
Patent Number	: 7613521	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/758,832	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **203** 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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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

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OFFICE OF PETITIONS

In re Patent No. 7,044,397 :
Issued: 16 May, 2006 :
Application No. 10/758,838 : ON PETITION
Filed: 16 January, 2004 :
Atty Docket No. H0005302-9953(1161.112310 :

This is a decision on the petition filed on 18 July, 2006, 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 **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The address on the petition is different than the address of record. A copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

[1] See Official Gazette of 22 June, 2004.

Telephone inquires 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: Brian N. Tufte
Crompton, Seager & Tufte
1221 Nicollet Avenue, Suite 800
Minneapolis MN 55403-2402

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OFFICE OF PETITIONS

In re Application of :
Raynold M. Kahn et al :
Application No. 10/758,865 : DECISION ON PETITION
Filed: January 16, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. PD-200289 :

This is a decision on the petition, filed May 1, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 17, 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 petition has been found in compliance with 37 CFR 1.137(b). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [notification of foreign filing under 35 U.S.C. § 122(b)(2)(B)(iii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of December 27, 2007, accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is currently before Technology Center Art Unit 2131 for appropriate action on the reply filed May 8, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/758,865	01/16/2004	Raynold M. Kahn	PD-200289

CONFIRMATION NO. 8015

20991
THE DIRECTV GROUP, INC.
PATENT DOCKET ADMINISTRATION
CA / LA1 / A109
P O BOX 956
EL SEGUNDO, CA 90245-0956

Date Mailed: 09/19/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 12/27/2007.

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".

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Mailed: 4-24-06

In re application of :
Toivo Kodas et al. : DECISION ON
Serial No.10/758,866 : PETITION
Filed: January 16, 2004 :
For: COPPER POWDERS, METHODS FOR PRODUCING POWDERS, AND DEVICES FABRICATED FROM SAME

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a), filed December 02, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed on November 21, 2005, for failure to timely file a proper reply to the Notice of Allowance mailed January 25, 2005 be withdrawn since applicants did timely file a Request for Continued Examination(RCE) and Information Disclosure Statement(IDS) on April 25, 2005 (A copy of the reply is attached to the instant petition as well as a copy of the stamped post card receipt and cancelled check No. 4120.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was properly filed on April 28, 2005 as evidenced by the stamped postcard receipt dated April 28, 2005 and a review of the Office's financial records indicates the fee for filing a Request for Continued Examination(RCE) was charged on April 28, 2005. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Notice of Allowance is hereby vacated, and the application is returned to pending status.

The application shall be forwarded for entry, processing and consideration of the Request for Continued Examination originally filed April 28, 2005.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

David F. Dockery
Marsh, Fischmann & Breyfogle LLP
Suite 411
3151 South Vaughn Way
Aurora, CO 80014

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Gundula CZYZEWSKI et al.	:	DECISION ON PETITIONS
Application No. 10/758,872	:	UNDER 37 CFR 1.183 AND
Filed: January 16, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P12008WOUS	:	

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/05414, filed May 16, 2002, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1746 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOWARD J. GREENWALD, P.C.
349 WEST COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Weiner et al.	:	DECISION ON PETITION
Application No. 10/758,875	:	TO WITHDRAW
Filed: January 16, 2004	:	FROM RECORD
Attorney Docket No. 034405-013	:	

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 30, 2005, 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 **APPROVED**.

A review of the file record indicates that the attorneys/agents associated with Customer Number 37282: (1) do not have power of attorney in this patent application; but (2) has been employed or otherwise engaged in the proceedings in this patent application. Only the correspondence address was associated with Customer Number 37282 upon initial filing of the application. The attorneys/agents associated with Customer Number 37282 may not act in a representative capacity under 37 C.F.R. § 1.34 unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

In view of the Revocation and New Power of Attorney submitted on December 1, 2005, the correspondence address of record has been changed to the first address listed below.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

cc:

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

MICHAEL L. WEINER
BIOMED SOLUTIONS LLC
150 LUCIUS GORDON DRIVE SUITE 215
WEST HENRIETTA, NY 14588

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S.C. JOHNSON COMMERCIAL MARKETS INC
8310 16TH STREET, M/S 510
PO BOX 902
STURTEVANT, WI 53177-0902

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OCT 27 2005

OFFICE OF PETITIONS

In re Application of :
Hubmann et al. :
Application No. 10/758,884 :
Filed: January 16, 2004 :
Attorney Docket Number: :
CM-115B-US : ON PETITION

This is a decision on the petition to revive an application abandoned unavoidably under 37 CFR § 137(a), filed October 20, 2005.

The Petition under 37 CFR 1.137(a) is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed June 14, 2005. The Notice set a non-extendale three (3) month period for reply. No response having been received, the application became abandoned on September 15, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the instant petition wherein Applicant avers that the Notice was not received.

Applicant is advised that an allegation that an Office action was not received may form the basis for revival of an application based upon unavoidable 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.

Accordingly, Applicant's assertion, that the Office action was not received, is insufficient to justify granting of the petition. Applicant must also provide a copy of the docket record (or file jacket) where the non-received Office action would have been entered had it been received and docketed.

Applicant should file a Request for Reconsideration of Petition and include the necessary copies of documents.

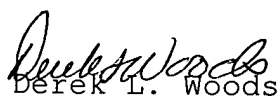
Further correspondence with respect to this matter should be addressed as follows:

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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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8310 16TH STREET, M/S 510
PO BOX 902
STURTEVANT, WI 53177-0902

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JAN 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Hubmann et al.	:	ON PETITION
Application No. 10/758,884	:	
Filed: January 20, 2004	:	
Attorney Docket Number:	:	
CM-115B-US	:	

This is a decision on the Renewed Petition under 37 CFR 1.137(a), filed December 15, 2005, 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 June 14, 2005. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned September 15, 2005.

With the instant petition, Applicant has demonstrated that the abandonment of the application was unavoidable, thus satisfying the requirements of a grantable petition under 37 CFR 1.137(a). The issue fee was submitted on October 20, 2005. 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

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/02/04

Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/758899 received on 02/17/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 08, 2008

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/758908 Patent No.: 7350643 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

X Approved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/Mickey Yu/ 3728
SPE **Art Unit**

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Date: March 18, 2009

Trent K. English
450 West Fourth Street
Royal Oak, MI 48067-2557

Patent No: 7,473,257 B2
Application No.: 10/758,925
Applicant: Christian Knopfle
Issued: January 6, 2009
Title: **BENDING PLIERS FOR PERFORATED BONE PLATES AND BENDING-PLIERS SYSTEM**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322/1.323.

Since inventor's names are printed in accordance with the *typed names* on the Declaration on file, *at the time of payment of the issue fee*, no correction is in order here under the provision of C.F.R. 1.322 or 1/323.

In view of the foregoing, your request in this matter is hereby **denied.**

However, further consideration will be given your request, upon receipt of a signed request, under the provisions of Rule 1.323, accompanied by a declaration **and** a statement over the signature of the inventor, whose initial (s) is in question.

V.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(703) 305-8309 or 308-9390 ext. 113

vt

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January 14, 2010

Christopher M. Francis
450 West Fourth Street
Royal Oak, MI 48067-2557

Patent No: 7,473,257 B2
Application No: 10/758,925
Applicant: Christian Knopfle, et al.
Issued: January 6, 2009
Title: **BENDING PLIERS FOR PERFORATED BONE PLATES AND BENDING-PLIERS SYSTEM**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322/1.323.

The error complained of on the Title Page item 75, per the examiner "applicant did not include a declaration as required (see letter mailed 03/18/09). It is noted that the letter clearly indicated that a request under 1.323, declaration AND statement were required for further consideration".

In view of the foregoing your request in this matter is hereby denied.

/Virginia Tolbert/
Virginia Tolbert
For Mary F. Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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APR 30 2007

OFFICE OF PETITIONS

In re Application of	:
Van Esbroeck, et al.	: DECISION REFUSING STATUS
Application No. 10/758,926	: UNDER 37 CFR 1.47(a)
Filed: January 16, 2004	:
Atty. Dkt. No.: 1063-0107PUS1	:
For: METHOD FOR PROCESSING	:
POULTRY	:

This decision is in response to the petition under 37 CFR 1.47(a) filed September 13, 2004.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Petitioners 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 CFR 1.47(a)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(a) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed April 21, 2004. The Notice required a surcharge and an executed oath or declaration.

The instant petition fails to comply with the requirements of 37 CFR 1.33(b) in that the petition itself has not been signed.

Any renewed petition must be properly signed, and may, if appropriate, include an oath or declaration executed by the non-signing inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand: U.S. U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulaney Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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PO BOX 747
FALLS CHURCH VA 22040-0747

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JUN 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Van Esbroeck, et al.	:	DECISION GRANTING STATUS
Application No. 10/758,926	:	UNDER 37 CFR 1.47(a)
Filed: January 16, 2004	:	
Atty. Dkt. No.: 1063-0107PUS1	:	
For: METHOD FOR PROCESSING POULTRY	:	

This decision is in response to the petition under 37 CFR 1.47(a) filed September 13, 2004. This decision corrects the decision mailed April 30, 2007.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to execute the declaration for the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(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.

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Rabdoud Hubert Gerard ZWANIKKEN
De Hultst 33
8531 SC Boxmeer, Netherlands

In re Application of :
Van Esbroeck, et al. : LETTER
Application No. 10/758,926 :
Filed: January 16, 2004 :
Atty. Dkt. No.: 1063-0107PUS1 :
For: METHOD FOR PROCESSING :
POULTRY :

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

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).

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
PATENT-SEA
P O BOX 1247
SEATTLE, WA 98111-1247

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DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Brian D. Dennis et al :
Application No. 10/758,943 : DECISION GRANTING PETITION
Filed: January 16, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 367618002US1 :

This is a decision on the petition, filed November 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

COPY MAILED

AUG 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Brown, Burlina, Depuy, Wang, Anderson, and Wingen :
Reissue Application No.: 10/758,954 : DECISION ACCORDING
Filed: January 16, 2004 : RULE 47(a) STATUS
Attorney Docket No: FILNTP.394A :
For: SYSTEM AND METHOD OF MANAGING
WEB CONTENT

This is in response to the petition under 37 CFR 1.47(a), filed June 24, 2004

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited reissue application was filed on January 16, 2004, and was not accompanied by an executed oath or declaration or the application filing fee. A Notice to File Missing Parts was mailed on April 21, 2004, allowing and extendable period for reply of two months from its mailing date. The notice required an executed oath or declaration and filing and additional claim fees to be filed. On June 24, 2004, the instant petition was filed, along with a declaration executed by five of the six joint inventors. The filing and additional claim fees were also remitted.

Petitioner has shown that inventor Anderson has refused join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Deposit account 11-1410 will be charged $110.00 for an extension of time within the first month necessary in order to make the instant petition timely.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Damon Anderson
3726 Connecticut Avenue, NW #205
Washington, DC 20008

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AUG 1 2 2004

OFFICE OF PETITIONS

In re Application of
Brown, Burlina, Depuy, Anderson, and Wingen :
Application No. 10/758,954 :
Filed: January 16, 2004 : LETTER
Attorney Docket Number: FILNTP.394A :
For: SYSTEN AND METHOD FOR MANAGING WEB CONTENT

Dear Mr. Anderson:

You are named as a joint inventor in the above-identified United States reissue patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. It should be further noted that any assignee of record of the entire interest in the application may request that the inventor(s) be excluded from access to the application. If the request is granted, you will be informed of that fact and will only be permitted to inspect the application on sufficient showing of why such inspection is necessary to conserve your rights. See *MPEP* 106, citing, *In re The Kellog Switchboard & Supply Company*, 1906 C.D. 274 (Comm'r Pat. 1906).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Knobbe, Martens, Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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NOV 30 2005

OFFICE OF PETITIONS

In re Application of
Brian T. McGeer, et al.
Application No. 10/758,955
Filed: January 16, 2004
Attorney Docket No.: 367618013US1

ON PETITION

This is a decision on the petition, filed November 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 3644 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 : November 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) : Brian T. McGeer, et al.
Application No. : 10/758,955
Filed : January 16, 2004

The above-identified application has been assigned Patent No. 6,971,606 and an issue date of December 6, 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 December 6, 2005:

> "All reference to Patent No. 6,971,606 to BRIAN T. MCGEER, ET AL. of WASHINGTON for METHODS AND APPARATUSES FOR LAUNCHING UNMANNED AIRCRAFT, INCLUDING METHODS AND APPARATUSES FOR RELEASABLY GRIPPING AIRCRAFT DURING LAUNCH appearing in the Official Gazette of December 6, 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 3-44l (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 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

JUL 16 2004

Michael W. Farn
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED
JUL 16 2004
OFFICE OF THE DIRECTOR
TC 3600

In re application of
Armin G. Ebrahimi et al :
Application No. 10/758,969 : **DECISION ON REQUEST**
Filed: January 15, 2004 : **FOR WITHDRAWAL OF**
For: VALUE SYSTEM FOR DYNAMIC COMPOSITION : **ATTORNEY**
OF PAGES

This is a decision on the request filed on March 11, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in not accepted in the above-identified application because the request lacks condition B) above.

The statement "The client knowingly and freely assents to termination of the employment" does not meet one of the acceptable reasons for an attorney withdrawal. Condition B) can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 7/13/04

cc: John Normile
JONES DAY LLC
222 East 41st Street
New York, NY 10017-6702

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BRINKS HOFER GILSON & LIONE / YAHOO! OVERTURE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Armin G. Ebrahimi	: DECISION ON REQUEST FOR
Patent Number	: 7574651	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/758,969	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **363** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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UNITED STATES DEPARTMENT OF COMMERCE
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BRINKS HOFER GILSON & LIONE / YAHOO! OVERTURE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 05/18/2010

Applicant : Armin G. Ebrahimi
Patent Number : 7574651
Issue Date : 08/11/2009
Application No: 10/758,969
Filed : 01/15/2004

: 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 **448** 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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MAY 3 1 2006

Technology Center 2100

Chun-Pok Leung
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

In re Application of:
Kenji YAMAGAMI
Application No. 10/758,971
Filed: January 15, 2004
For: DISTRIBUTED REMOTE COPY SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed on 06 October 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of 06 October 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application is being forwarded to the

Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 2 2008

TO SPE OF : ART UNIT 2841

SUBJECT : Request for Certificate of Correction for Appl. No 10/758982 patent no7280371

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.

/Jinhee J. Lee/
SPE A. U. 2841

_____ _____

SPE **Art Unit**

SPE G. Kunz

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/758,994

Paper No.: _____

DATE : 6/8/05

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction on Patent No.: 6861076

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte Newsome

Thank You For Your Assistance — **Certificates of Correction Branch**

BEST AVAILABLE COPY

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:

Changes are all grammatical.

CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Christopher Low for Gary Kunz
SPE SPE 1616

1614
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Richard L. Chinn
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, Virginia 22314

In re:	Sasaki et al	:	DECISION ON REQUEST
Serial No.:	10/759,005	:	UNDER 37 CFR 5.25
Filing date:	January 20, 2004		
Docket No:	247889US0X		

Title: **THIN FILM MAGNETIC HEAD AND MANUFACTURING METHOD THEREOF**

This is a decision on the petition filed on May 18, 2004 for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C.184 be granted with respect to the filings listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under a secrecy order, that the license was diligently sought after discovery of the proscribed foreign filing, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	**Date**
Japan	January 13, 2004

Ian J. Lobo
Patent Examiner
(703) 306-4161

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 25 2006

OFFICE OF PETITIONS

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

In re Application of :
La, et. al : DECISION ON PETITION
Application No. 10/759,018 :
Filed: January 20, 2004 :
Atty. Dkt. No.: P24818 :

This is a decision on the petition to revive under 37 CFR 1.181, filed June 29, 2006.

This application was held abandoned May 8, 2006 for failure to timely submit a proper reply to the Notice mailed February 7, 2006. Notice of Abandonment was mailed June 13, 2006.

Petitioners assert non-receipt of the Notice mailed February 7, 2006.

In the absence of any irregularity in the mailing of the Notice, 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 Notice 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, petitioners have provided a copy of the docket record where the Notice would have been entered had it been received along with a statement from petitioners that a search of the docket record and file jacket indicated that the Notice was not received.

In view of the evidence presented, the Notice of Abandonment is hereby **VACATED** and the Notice of Abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center 2700 for mailing by the technical support staff of a new Notice. The time period for response will be set to run from the date the new Notice is mailed.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT
1940 DUKE ST
ALEXANDRIA VA 22314

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MAY 19 2005

OFFICE OF PETITIONS

In re Application of Sugiura, et al. Application No. 10/759,029 Filed: January 20, 2004 Attorney Docket No. 246918US2	:	DECISION ON PETITION

This is a decision on the "PETITION IN RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION", filed October 4, 2004, which is being treated as a petition under 37 C.F.R. § 1.53 to accord the above-identified application a filing date of January 20, 2004, with pages 74-76 of the specification and 1 page of drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on January 20, 2004. However, on August 4, 2004, the Initial Patent Examination Division mailed applicants a "Notice of Incomplete NonProvisional Application." Applicants were notified that the application papers had not been accorded a filing date because the application was deposited without drawings. In addition, the oath or declaration and the abstract were missing, and pages 74 - 76 of the specification appeared to have been omitted.

In response, applicants filed the instant petition. Accompanying the petition was a copy of 1 drawing sheet and pages 74 - 76 of the specification (page 76 included the abstract).[1] Applicants maintain that the application as originally filed included 1 page of drawings and pages 74 - 76 of the specification. In support thereof, applicants submitted a receipt identifying this application, itemizing "76 pp. Specification 20 Claims/Drawings 1 Sheet" as enclosed, bearing a United States Patent and Trademark Office date-stamp of January 20, 2004, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, no petition fee was required, and none has been charged.

Receipt of the abstract and the declaration, submitted with the instant petition, is acknowledged.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of January 20, 2004, using the application papers received in the Office on that date and pages 74 - 76 of the specification and the 1 page of drawings as resupplied on petition filed October 4, 2004, and for indication in Office records that 1 page of drawings was present on filing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[1] Pages 74 and 75 contained claims 12 - 18.

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P.O. Box 1450
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Wisam Enterprises Co., Ltd.
P. O. Box No. 6-57
Junghe
Taipei 235 TW
TAIWAN

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of Chen :
Application No. 10/759,039 : Decision on Petition
Filing Date: January 20, 2004 :
For: Touch-Control Floor Lamp :

This is a decision on the petition under 37 CFR 1.181, filed May 6, 2005, and supplemented September 22, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application was deemed abandoned for failure to reply in a timely manner to the non-final Office action mailed June 15, 2004, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application deemed abandoned as of September 16, 2004. A Notice of Abandonment was mailed on January 11, 2005.

Petitioner contends the non-final Office action was never received.

The evidence of record is sufficient to establish non-receipt of the non-final Office action.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2875 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new copy of the non-final Office action. The time period for responding to the new non-final Office action will be set to run from the mailing date of the new 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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ROSENBERG KLEIN & LEE
3458 ELLICOTT CENTER DRIVE, SUITE 101
ELLICOTT CITY, MD 21043

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APR 19 2005

OFFICE OF PETITIONS

In re Application of :
Chia-Sheng Su et al :
Application No. 10/759,051 : ON PETITION
Filed: January 20, 2004 :
Attorney Docket No. MR1115-495 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed October 15, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 16, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to the Publishing Division.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE NW
WASHINGTON DC 20037

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JUL 14 2008

In re Application of :
Smith, et al. :
Application No. 10/759,130 : ON PETITION
Filed: January 20, 2004 :
Attorney Docket No. 117622-00105 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 1, 2008.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned due to failure to timely file a reply to the Notice of Allowance, mailed February 21, 2008. This Notice set a statutory period of three months for issue fee transmittal. No issue fee having been received, the application became abandoned on May 22, 2008. The Office mailed a Notice of Abandonment on June 16, 2008.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and

docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

With the instant petition, petitioner has submitted a copy of a proper master docket report, showing all of his replies docketed for the due date of May 21, 2008. An entry for the instant application is absent, supporting the conclusion that the Notice of Allowance was not received. In addition, petitioner has stated that the Notice was not received, and attested to the fact that he searched the file jacket and docket records.

The matter is being forwarded to Group Art Unit 3735 for re-mailing of the Notice of Allowance, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
CRYSTAL CITY STATION
ARLINGTON VA 22215

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bettencourt, Brian L. :
Application No. 10/759,136 :
Filed: January 20, 2004 :
Attorney Docket No. 23844.00 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 30, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a 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 3600 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

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YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA VA 22314

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OCT 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Morgan et al.	:	
Application No. 10/759,181	:	ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. 3007-1016-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 14, 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 payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

On October 2, 2008, USPTO fees were increased. A total of $1865.00 to cover the $810.00 petition fee, $755.00 issue fee and $300.00 publication fee was needed. $1500.00 was charged to petitioner's credit card. Accordingly, the remaining $365.00 will be charged to petitioner's deposit account as authorize to cover the remainder.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

KING & SPALDING LLP
1180 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3521

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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DEC 14 2005

Technology Center 2100

In re Application of SHIMIZU et al	:	
Application No.: 10/759,204	:	DECISION ON PETITION
Filing Date: January 20, 2004	:	FOR ACCELERATED
For: COMPUTER SYSTEM CONTROLLING	:	EXAMINATION UNDER
ACCESSES TO STORAGE APPARATUS	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed November 2, 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 **GRANTED**.

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.

Because the petition filed November 2, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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ALEXANDRIA VA 22313-1404

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FEB 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Lindholm et al. :
Application No. 10/759,244 : ON PETITION
Deposited: January 20, 2004 :
Attorney Docket No.:.032469-007 :
Title of Invention: OSTEOGENIC :
DEVICE AND A METHOD FOR PREPARING :
THE DEVICE

This is a decision on the Petition for Filing Date filed October 29, 2004, requesting that the above-identified application be accorded the filing date of January 20, 2004.

Application papers in the above-identified application were deposited on January 20, 2004. However, on September 14, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicant that the application papers had not been accorded a filing date because the application was deposited without a specification.[1]

In response, 52 pages of specification and three pages of claims and the present petition were filed on October 29, 2004. The petition contends that the application as filed included 52 sheets of specification and three pages of claims. In support, the petition is accompanied by a copy of applicants' postcard receipt which acknowledges receipt in the office of " Specification (1-52) and Claims (claims 1-15, 3pgs)" on January 29, 2004.

Applicant's postcard receipt is prima facie[2] evidence that the

---

[1] See 35 U.S.C. 111(a)(4)

[2] A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

specification and claims were received on January 20, 2004. The specification and claims have been located in the application files.

The petition is Granted. No petition fee has been charged.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of January 20, 2004**, using the 52 sheets of specification and three sheets of claims supplied on January 20, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

In re Patent No. 7,605,862
Issued: October 20, 2009
Application No. 10/759,272
Filed: January 20, 2004
Attorney Docket No: 320528568US

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B) filed on December 21, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 636 days to 951 days. This matter is being treated pursuant to 37 C.F.R. § 1.705(D).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred fifty (950) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on January 20, 2007 and ends on January 27, 2008, the day before the RCE was filed, and the B delay considering the 58 days of overlap is 372 (not 373) days. See 35 U.S.C. 154(b)(1)(B)(i). Non-overlapping B delay is 314 days. As such, the patent term adjustment is 950, not 951 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred fifty (950)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,605,862 B2

DATED : October 20, 2009

INVENTOR(S) : Chuan-Kung Hou

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 (636) days

Delete the phrase "by 636 days" and insert – by 950 days--

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Chuan-Kung Hou	: DECISION ON REQUEST FOR
Patent Number	: 7605862	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/759,272	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1264** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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2100 PENNSYLVANIA AVENUE, N.E.
SUITE 800
WASHINGTON DC 20037

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SEP 30 2004

OFFICE OF PETITIONS

In re Application of :
Kazunaga Suzuki :
Application No. 10/759,276 :
Filed: January 20, 2004 :
Attorney Docket No. Q79449 :

ON PETITION

This is a decision on the petition, filed September 20, 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 August 4, 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 (703) 305-8859.

The examiner of Technology Center AU 2853 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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INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

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NOV 24 2004

OFFICE OF PETITIONS

In re Application of
Coleman et al.
Application No. 10/759,277
Filed: January 20, 2004
For: HUMAN GLYCOSYLATION ENZYMES
Attorney Docket No: PF505D2
Pub. No.: US 2004/0142442 A1
Pub. Date: July 22, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on August 17, 2004 for the above-identified application.

The request is DISMISSED.

Applicant request that the application be republished because the patent application publication contains a material error, as the sequence listing filed with the application is not in the publication itself or in the PSIPS database.

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 instant request does not identify a material mistake in the publication made by the Office:

The errors are not material mistakes because the application is a Divisional of U.S. Application 09/984,205 filed October 29, 2001, now U.S. Patent 6,333,182. Since, the parent application is patented and contains the information printed correctly, the errors do 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. The error also does not affect the use of

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

the patent application publication as a prior art reference, because the continuity data is correctly published and the patent has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of July 31, 2004.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-872-9306

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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WHITHAM, CURTIS & CHRISTOFFERSON, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Peart et al.	:	DECISION GRANTING
Application No. 10/759,280	:	PETITION
Filed: 20 January, 2004	:	
Attorney Docket No. 02940086CA	:	

This is a decision on the petition styled under 37 CFR 1.181 and 1.183, filed on 22 June, 2004, which is treated as a petition requesting that the above-identified application, without drawings, be accorded a filing date of 20 January, 2004.

The application was filed on 20 January, 2004, without drawings.[1] Accordingly, on 22 April, 2004, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on 22 June, 2004, petitioners filed the present petition, accompanied by eight (8) sheets of drawings. Petitioners concede that the drawings were inadvertently omitted when the present application was filed, but state that the drawings were present in a prior-filed application incorporated by reference in the present application.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] A review of the record reveals that Claims 1-19 are method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention.

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[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01(f).

Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. Since the petition was necessitated by an error on the part of the USPTO, the petition fee submitted on 22 June, 2004, will be credited to counsel's deposit account, No. 50-2041.

The "Notice of Incomplete Nonprovisional Application" mailed on 22 June, 2004, was sent in error and is hereby vacated.

The application will be processed and examined using only the application papers filed on 20 January, 2004. The eight (8) sheets of drawings filed with the present petition will not be used for processing or examination, but will be retained in the application file.

Obviously, in view of the incorporation by reference of the prior application, the eight (8) sheets of drawings are not new matter if they were a part of the disclosure of the prior application.

Petitioners should file the eight (8) sheets of drawings as a preliminary amendment. If the eight (8) sheets of drawings are filed as a preliminary amendment, they will be reviewed by the examiner for new matter.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 20 January, 2004, using only the application papers present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Chen, et al.	:	
Application No. 10/759,333	:	DECISION ON PETITION
Filed: January 16, 2004	:	
Attorney Docket No. Halliburton-135/US	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 29, 2007.

The petition is **GRANTED**.

The Office mailed a non-final Office action on March 10, 2006, setting a shortened statutory period for reply of three (3) months. Applicants filed a reply on August 10, 2006, made timely by obtaining a two month extension of time. However, the Office mailed an action on October 17, 2006, objecting to the drawings and requiring corrected drawings within thirty days. A Notice of Abandonment was mailed on April 5, 2007. The Notice indicated that the response filed on August 10, 2006 was improper, and that no further response was received. The Notice made no mention of the October 17, 2006 Office action, which gave applicants an additional thirty days to file corrected drawings.

A review of the application file reveals the presence of drawings filed on November 20, 2006, made timely by including a Certificate of Mailing dated November 15, 2006. 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 2863 for consideration of the drawings filed November 20, 2006 (Certificate of Mailing dated November 15, 2006).

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Baker & McKenzie LLP
1114 Avenue of the Americas
New York, NY 10036

In re Application of :

Anthony Zuppero et al. :
Application No. 10/759,341 : DECISION ON PETITION
Filed: January 16, 2004 : TO WITHDRAW
Attorney Docket No. 2212287-75 : 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 request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

Note: The Revocation Power of Attorney filed on October 11, 2006 has not been accepted because all the inventors did not sign it.

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- 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Neokismet LLC**
505 Montgomery Street
Suite 300
San Francisco, CA 94111

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/759,341	01/16/2004	Anthony C. Zuppero	22122878-75

CONFIRMATION NO. 7473

26453
BAKER & MCKENZIE LLP
1114 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

OC000000020865960
OC000000020865960

Date Mailed: 10/17/2006

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/11/2006 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The revocation is not signed by the applicant, the assignee of the entire interest, or one particular principal attorney having the authority to revoke.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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THE PINEHURST OFFICE CENTER, SUITE 101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

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SEP 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Michael C. Clark :
Application No. 10/759,351 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. 68002-441 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 27, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 28, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3725 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/16/08

TO SPE OF : ART UNIT 2841

SUBJECT : Request for Certificate of Correction for Appl. No.: 10759363 Patent No.: 7189929 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

The Examiner agrees /HN/

SPE [signature] Art Unit 2841

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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CANON U.S.A. INC. INTELLECTUAL
PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

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DEC 04 2008

In re Application of

Iwamura, et al.

Application No. 10/759,364

Filed: January 16, 2004

Attorney Docket No. CFA00042US

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed November 10, 2008.

The petition is **dismissed**.

This application was held abandoned October 31, 2008, after no reply was received to the Notice to of Allowance and Issue Fee Due mailed July 30, 2008. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on October 31, 2008. A Notice of Abandonment was mailed October 28, 2008. The instant petition was filed on November 10, 2008. Petitioner maintains that the notice of July 30, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has not made the evidentiary showing specified above. Petitioner has not provided a copy of the master docket for the firm for the three month period for reply set forth in Notice of Allowance and Issue Fee Due. If a master docket does not exists, petitioner is required to state this in the renewed petition and provide any other corroborative evidence that petitioner may have to substantiate the claim that the Notice of Allowance and Issue Fee Due was not received.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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CANON U.S.A. INC. INTELLECTUAL
PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

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JAN 16 2009

In re Application of

Iwamura, et al.

Application No. 10/759,364

Filed: January 16, 2004

Attorney Docket No. CFA00042US

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed December 19, 2008.

The petition is **granted**.

This application was held abandoned October 31, 2008, after no reply was received to the Notice to of Allowance and Issue Fee Due mailed July 30, 2008. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on October 31, 2008. A Notice of Abandonment was mailed October 28, 2008. The instant petition was filed on November 10, 2008. Petitioner maintains that the notice of July 30, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2100, GAU 2134 for further processing that will include remailing the Notice of Allowance and Issue Fee Due and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE, CA 95110

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MAR 21 2007

OFFICE OF PETITIONS

In re Application of :
Jun-Hyung Souk et al :
Application No. 10/759,389 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. AB-1351 US

This is a decision on the petition, filed March 15, 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 12, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

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APR 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Kishan Shenoi	:	
Application No. 10/759,391	:	DECISION ON PETITION
Filed: January 16, 2004	:	
Attorney Docket No. SYMM/0015	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before December 18, 2008, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed September 18, 2008. Accordingly, the date of abandonment of this application is December 19, 2008. The Notice of Abandonment was mailed January 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings , (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 Williams at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

Chris Bottorff
Petitions Examiner
Office of Petitions

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COVINGTON & BURLING, LLP
ATTN: PATENT DOCKETING
1201 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004-2401

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AUG 18 2008

In re Application of :

VERNA, Tony :
Application No. 10/759,395 : DECISION ON PETITION
Filed: January 20, 2004 : TO WITHDRAW
Attorney Docket No. 31981-6 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 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 Paul J. Berman on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address as it is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed February 27, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: TONY VERNA
1944 PALISADES DRIVE
PACIFIC PALISADES, CA 90272

cc: SCANZ COMMUNICATIONS, INC.
C/O SID TESSLER
11726 SAN VINCENT BOULEVARD, SUITE 360
LOS ANGELES, CA 90049

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AUG 2 2004

OFFICE OF THE DIRECTOR
TC 3600

DELBERT J. BARNARD, ESQ.
P.O. BOX 58888
Seattle, WA 98138-1888

In re application of : **DECISION ON PETITION**
Raymond Keith Foster **TO MAKE SPECIAL**
Application No. 10/759,399 : **(APPLICANT'S AGE)**
Filed: January 14, 2004 :
For: RECIPROCATING SLAT CONVEYOR WITH FIXED AND MOVABLE SLATS

This is a decision on the petition submitted on June 18, 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**.

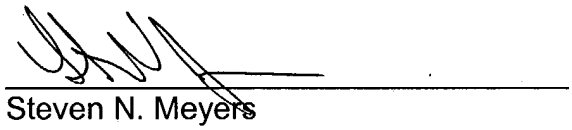
An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Foster indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/pav: 7/28/04

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VERIZON
PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD
SUITE 500
ARLINGTON VA 22201-2909

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FEB 20 2008

In re Application of :
Humphries, et al. :
Application No. 10/759,406 : DECISION
Filed: 16 January, 2004 :
Attorney Docket No. 09710-1207 :

This is a decision on the petition filed on 10 May, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing the instant matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTE: any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 31 October, 2006, with reply due absent an extension of time on or before 31 January, 2007;

- the application went abandoned by operation of law after midnight 31 January, 2007;

- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;

- on 9 May, 2007, Petitioner Pamela S. Merkadeau (Reg. No. 53,318) submitted the instant petition with fee, with a reply in the form of an amendment, and made a statement of unintentional delay—however, Petitioner appears not to have been of record at the time the application went abandoned and is unable to make the statement, which must be made by the Applicant (and/or his/her Assignee or the then-Counsel at the time of the abandonment).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always should note that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[3]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[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).

And the Petitioner must be diligent in attending to the matter.[4] 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.[5]))

As to Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a proper reply, a statement/showing of unintentional delay, and–where appropriate—a terminal disclaimer and fee.

As indicated above, Petitioner has failed to satisfy the statement/showing requirement under the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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[4] 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.

[5] 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.

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[6]) 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

---

[6] 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/16/08

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/759426** Patent No.: **7190219**

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: _____

LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER

2816
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS, CO 80907-7449

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JUL 03 2006

OFFICE OF PETITIONS

In re Application of :
Rodney E. Hooker :
Application No. 10/759,489 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No.: CNTR.2233 :

This is a decision on the petition, filed June 30, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 19, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2111 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
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HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS, CO 80907-7449

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of :
Rodney E. Hooker :
Application No. 10/759,489 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No.: CNTR.2233 :

This is a decision on the petition, filed August 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 27, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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 2111 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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COOLEY GODWARD LLP
ATTN: PATENT GROUP
THE BOWEN BUILDING
875 15TH STREET, N.W. SUITE 800
WASHINGTON DC 20005-2221

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of :
Wheeler :
Application No. 10/759,532 : DECISION ON PETITION
Filed: January 20, 2004 : TO WITHDRAW
Attorney Docket No. ACCU-002/01US : 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 2, 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, this withdrawal is requested because we will no longer represent the assignee of the entire interest in the above-referenced application, 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.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Mr Thomas W. Ludeke
ACCU-MED SERVICES, LLC
300 TechneCenter Drive
Suite A
Milford, OH 45150

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PERKINS COIE LLP
PATENT-SEA
P O BOX 1247
SEATTLE, WA 98111-1247

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DEC 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Brian T. McGeer	:	
Application No. 10/759,541	:	DECISION GRANTING PETITION
Filed: January 16, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 367618008US1	:	

This is a decision on the petition, filed November 29, 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 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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OFFICE OF PETITIONS

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

In re Application of :
McGeer :
Application No.: 10/759,541 :
Filing Date: January 16, 2004 :
Docket No.: 367618008US1 :
For: Methods And Apparatuses For Launching, Capturing, And Storing Unmanned Aircraft, Including A Container Having A Guide Structure... :

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on May 24, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the Notice of Allowance and Fee(s) Due (Form PTOL-85) mailed on December 23, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on March 23, 2006. A Notice of Abandonment was mailed on May 11, 2006.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner has submitted the required reply in the form of "Part B - Fee(s) Transmittal" requesting that the Issue Fee and Publication Fee earlier paid (on November 8, 2005) be re-applied. Petitioner has also paid the petition fee and made the required statement of unintentional delay. No Terminal Disclaimer is required since this application was filed after June 8, 1995. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

This application is being referred to the Publishing Division.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions

Telephone: 571-272-3283
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PERKINS COIE
ATTN: JOHN M. WECHKIN
P.O. BOX 1247
SEATTLE, WA 98111-1247

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DEC 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Brian D. Dennis et al :
Application No. 10/759,545 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. 367618006US1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 29, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 2, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3643 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

In re Application of :
Weiner, et al. :
Application No. 10/759,561 : ON APPLICATION FOR
Filed: January 15, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No.12560-016-999 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed July 20, 2009. Applicants submits that the correct patent term adjustment to be indicated on the patent is one thousand three hundred and four (1,304) days, not eight hundred ninety-nine (899) 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 an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on October 14, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Patent No. 7,601,740	:	DECISION ON REQUEST
Weiner, et al.	:	FOR
Issue Date: October 13, 2009	:	RECONSIDERATION OF
Application No. 10/759,561	:	PATENT TERM ADJUSTMENT
Filed: January 15, 2004	:	and
Atty Docket No.12560-016-999	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 14, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, three hundred and four (1,304) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred and fifty-nine (1,259) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on January 16, 2007, and ends on October 13, 2009, the day before the RCE was filed, and is 637 (not 638) days. See 35 U.S.C. 154(b)(1)(B)(i).

A review of the application file history reveals that on July 10, 2009, patentees submitted a "Request to Correct Inventorship Under 37 CFR § 1.48(b)", after the mailing of the notice of allowance, which under the circumstances of this application, is a ground for reduction of patent term adjustment under 37 CFR 1.704(c)(10).

37 CFR 1.704(c)(10) provides:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, 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;
>
> or
>
> (ii) Four months;

In this instance, it is undisputed that patentees filed the "Request to Correct Inventorship Under 37 CFR § 1.48(b)" after the mailing of the notice of allowance. It is noted that the period of reduction to the patent term adjustment is 44 days, beginning on the date the "Request to Correct Inventorship Under 37 CFR § 1.48(b)" was filed, July 10, 2009, ending on the date the response to the petition was mailed, September 1, 2009. Accordingly, a period of reduction of 44 days, will be entered.

In view thereof, the patent should have issued with a revised Patent Term Adjustment of one thousand, two hundred and fifty-nine (1,259) days, (1,541 days of Office delay - 49 (5 + 44) days of applicant delay - 233 of overlap).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges receipt of $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or

adjusted by **one thousand two hundred and fifty-nine (1,259)** days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,601,740 B2

DATED : Oct. 13, 2009

INVENTOR(S) : Weiner 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 (899) days

Delete the phrase "by 899 days" and insert – by 1,259 days--

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United States Patent and Trademark Office
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ACADIA PHARMACEUTICALS INC.
3911 Sorrento Valley Blvd.
San Diego, CA 92121

Mail Date: 04/21/2010

Applicant	: David M. Weiner	: DECISION ON REQUEST FOR
Patent Number	: 7601740	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/759,561	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1663** 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUL 19 2006

TECHNOLOGY CENTER 2100

In re Application of: YAMAGAMI, KENJI
Application No. 10/759,581
Filed: 16 January 2004
For: METHOD AND APPARATUS FOR LIMITING ACCESS TO A STORAGE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed 01 August 2005, to make special the captioned application under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In this case, the petition fails to properly discuss the claimed subject matter in accordance with the section (e) requirements.

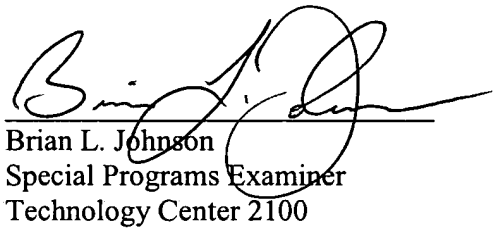
In the petition filed 01 August 2005, in section (e) under the heading "Claimed Subject Matter of the Present Invention", the first sentence states that "[t]here are nine independent claims among the 50 claims that are pending in the instant application." The USPTO records, however, show the Application has four independent claims and 33 claims in toto. Consequently, the petition's specifying that nine independent claims and fifty claims are in the case creates confusion and a question regarding the actual claims at issue.

In addition and contrary to Petitioner's remarks regarding claim language that defines over the references provided, the phrase "and not permitted otherwise" is not found in independent claim 1 of the instant application. The petition must address **each of the independent claims in the Application** with respect to the prior art in order to satisfy section (e) supra. Petitioner is therefore required to properly **identify each of the independent claims in the case** and submit a detailed discussion which points out how **each independent-claim of the invention** distinguishes over the relevant teachings of each reference.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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OCT 18 2007

TECHNOLOGY CENTER 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of: Kenji Yamagami
Application No. 10/759,581
Filed: January 16, 2004
For: METHOD AND APPARATUS FOR LIMITING ACCESS TO A STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the Request for Reconsideration filed August 25, 2006 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on August 1, 2005, and dismissed on July 19, 2006.

The Petition is **DENIED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(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 renewed petition filed August 25, 2006 fails to adequately meet requirement (e) of the criteria set forth above. As stated in the previous decision of July 19, 2006, Petitioner must provide a detailed discussion of the references, which discussion **must clearly point out** the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited. In the discussion of the references, Petitioner is required to point out (substantively detail) the prior art elements and associations germane to the claim(s) to fully flesh-out the comparison between the referenced prior art and Applicant's claimed features. The petition must specifically show, **for each independent-claim**, specific language that distinguishes over each given reference in order to specify "how the claimed subject matter is patentable over the references" that are "deemed to be most closely related to the subject matter encompassed by the claims."

The instant application currently contains four independent claims, i.e. 1, 13, 22 & 32 and provides an accurate detailed discussion with respect to claim 1. However, the instant petition fails to accurately identify and address patentable novelty of independent claims 13, 22 and 32. For instance, contrary to Petitioner's remarks (beginning on pages 3 & 4 of the instant petition), the recitation of **"receiving a connection request from a sending device"**, and **"obtaining manufacture-related information associated with the sending device"**, and **"responding to the request in a positive manner or in a negative manner based on comparing the sender's ..."**, "... in independent claim 13, 22 and 32", do not appear in pending independent claims 13, 22 & 32 as indicated.

Therefore, the detailed discussion in the instant petition is not applicable to instant claims 13, 22 and 32.

Accordingly, the Petition to Make Special **DENIED** since all of the requirements for special status under MPEP § 708.02(VIII) have NOT been met. The application is being returned to the Examiner's docket to await examination in its proper turn based on its effective filing date.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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PITTSFIELD MA 01201

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OFFICE OF PETITIONS

In re Application of :
Mariner, Heil, Longworth, Lennartz, : DECISION ACCORDING STATUS
Sane, Macey, Leist, and Devan : UNDER 37 CFR 1.47(a)
Application No. 10/759,582 :
Filed: 16 January, 2004 :
Atty Docket No. US 131067-2 60QZ

This is in response to the petition filed under 37 CFR 1.47(a)[1] on 14 May, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor could not be located despite diligent efforts. Specifically, petitioners have established that a letter sent to the last known address of the non-signing inventor was returned as undeliverable. Furthermore, petitioners have shown that despite diligent efforts, the non-signing inventor could not be located.

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 petition fee of $130.00 will be charged to counsel's deposit account, No. 50-2339, as authorized in the present petition.

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

After this decision is mailed, the application will be forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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DIW 08-04

Thomas E. Devan
23905 Detroit Road
Westlake OH 44145

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AUG 0 6 2004

OFFICE OF PETITIONS

In re Application of
Mariner et al.
Application No. 10/759,582
Filed: 14 May, 2004
For: Wafer Handling Apparatus and Method of Manufacturing Thereof

Dear Mr. Devan:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

GE SPECIALITY MATER
ONE PLASTICS AVENUE
PITTSFIELD MA 01201

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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
10/756,583	01/13/2004	2661	1372	5649-1198	9	18	10

CONFIRMATION NO. 3146

Mitchell S. Bigel
Myers Bigel Sibley & Sajovec, P.A.
P.O. BOX 37428
Raleigh, NC 27627

CORRECTED FILING RECEIPT

OC000000013017274

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)

Dong-kyu Kim, Kyungki-do, KOREA, REPUBLIC OF;
Hoon-soon Choi, Seoul, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 10-2003-0012811 02/28/2003

If Required, Foreign Filing License Granted: 04/19/2004

Projected Publication Date: 09/30/2004

Non-Publication Request: No

Early Publication Request: No

Title

Multiple transmission/reception orthogonal frequency division multiplexing systems and methods

Preliminary Class

370

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES CA 90045

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NOV 0 9 2009

OFFICE OF PETITIONS

In re Patent No. 6,989,324 :
Issue Date: January 24, 2006 :
Application No. 10/759,589 : ON PETITION
Filed: January 15, 2004 :
Attorney Docket No. UC 2004-014-1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Additionally, the request for the change in power of attorney has been accepted and the Notice enclosed. Further, the request for change of correspondence address has been 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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: 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
10/759,589	01/15/2004	Seung-Heon Lee	1279-412/10031297

CONFIRMATION NO. 7988

22462
GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES, CA 90045

POA ACCEPTANCE LETTER

Date Mailed: 11/06/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/17/2009.

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.

/jolszewski/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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JOHN C. ALEMANNI
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

COPY MAILED

MAY 15 2006

OFFICE OF PETITIONS

In re Application of :
Kevin Campbell, et al. :
Application No. 10/759,593 : DECISION ON REQUEST
Filed: January 16, 2004 : TO WITHDRAW
Attorney Docket No. 49942-296293 : 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 2, 2005.

The request is **NOT APPROVED** as moot.

The request is signed by John C. Alemanni on behalf of himself and all the attorneys/agents of record associated with Customer Number 43925. However, a review of the file record indicates that the power of attorney to all the attorneys/agents associated with Customer Number 43925 have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: NELSON MULLINS RILEY & SCARBOROUGH, LLP
1320 MAIN STREET, 17TH FLOOR
COLUMBIA SC 29201

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/759,593	01/16/2004	Kevin Campbell	49942-296293

CONFIRMATION NO. 8696

CYNTHIA B. ROTHSCHILD
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

OC000000018784092
OC000000018784092

Date Mailed: 05/12/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/13/2005.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Sherry D. Brinkley

SHERRY D BRINKLEY
OP (571) 272-3204

FORMER ATTORNEY/AGENT COPY

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 05/07/2010

Applicant	: Richard J. Donald	: DECISION ON REQUEST FOR
Patent Number	: 7620407	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/759,597	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1358** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE G. Kunz

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/759,616

Paper No.: _____

DATE : 6/7/05

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction on Patent No.: 6855339

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte Newsome
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes do not apply.
☐ **Denied**	State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

Mary L. Kunz
SPE

1616
Art Unit

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NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Larry J. Pacey	: DECISION ON REQUEST FOR
Patent Number	: 7654895	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/759,619	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1069** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 27, 2007

TO SPE OF : ART UNIT 2644

SUBJECT : Request for Certificate of Correction for Appl. No. 10/759626 patent No.:6954530

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: _____

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2614
Art Unit

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Brent E. Vecchia
Blakely, Sokoloff, Taylor & Zafman LLP
7th Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

Mail Date: 05/14/2010

Applicant	: Daniel Richard Monroe	: DECISION ON REQUEST FOR
Patent Number	: 7627022	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/759,634	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2004	: 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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August 21, 2006

FILE COPY

Patent No. : 7,077,880 B2
Ser. No. : 10/759666
Inventor(s) : Siddiqui
Issued : July 18, 2006
Title : **SURFACE MODIFIED COLLOIDAL ABRASIVES, INCLUDING STABLE BIMETALLIC SURFACE COATED SILICA SOLS FOR CHEMICAL MECHANICAL PLANARIZATION**
Docket No. : **06406 USA**

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.

The alleged error in **column 13** , **line 11** , is a change made in an Examiner's Amendment at time of allowance. Since applicant filed no objection prior to payment of the base issue fee, no correction is in order here under Rule 1.322.

In view of the foregoing, your request in this matter is denied.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 110** or (703) 308-8309

AIR PRODUCTS AND CHEMICALS, INC.
PATENT DEPARTMENT
7201 HAMILTON BOULEVARD
ALLENTOWN PA 18195-1501

CBN/eme

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DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

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AUG 2 2 2006

OFFICE OF PETITIONS

In re Application of :
MING-HUNG TSENG, et al. :
Application No. 10/759,670 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. TS02-1240 :

This is a decision on the petition under 37 CFR 1.137(a), filed May 31, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application was abandoned for failure to timely file a proper response to the non-final office action dated September 13, 2005 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 14, 2005.

The instant petition was filed on the basis that the attorney of record never received the office action dated September 13, 2005. Petitioner submitted as evidence his docket record for the instant application along with statements by the attorney of record, Steven E. Koffs, and the paralegal, Joy Chou, from the assignee's intellectual property department at the address where the office action was mailed.

The showing submitted is sufficient to establish unavoidable delay within the meaning of 35 U.S.C. §133 and 37 CFR 1.137(a). Accordingly, the reply to the non-final Office action of September 13, 2005 is accepted as having been unavoidably delayed.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of $500 for large entity; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

It is noted that the Revocation and Substitution of Power of Attorney filed on January 28, 2005 appointed power of attorney to two customer numbers along with two additional individual practitioners. Where an applicant appoints all of the practitioners associated with a customer number, as well as a list of individually named practitioners, such action would be treated as only an appointment of all of the practitioners associated with a customer number due to the potential

for confusion and data entry errors. Furthermore, more than one customer number cannot be applied to the power of attorney in one application, and effective June 25, 2004, the associate power of attorney practice has been eliminated. See MPEP 403 section I. Customer Practice. Accordingly, the additional attorneys stated on the revocation has not been accepted, and power of attorney has only be granted to customer number 08933.

This application is being referred to the Technology Center Art Unit 2834 for appropriate action on the amendment filed with the instant petition on May 31, 2006.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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STEPHEN B. ACKERMAN
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Chyiu Hyia Poon et al :
Application No. 10/759,671 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. CS03-015 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 27, 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 August 9, 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 February 13, 2006 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed March 16, 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 February 10, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of August 9, 2005 is accepted as having been unintentionally delay.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This application is being referred to Technology Center AU 2812.

Wan Laymon
Petitions Examiner
Office of Petitions

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DIW Nov-06

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HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN OK 73536-0440

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NOV 13 2006

OFFICE OF PETITIONS

In re Application of :
Reddy et al. :
Application No. 10/759,678 : ON PETITION
Filed: 16 January, 2004 :
Atty Docket No. HES 2003-IP-011937U1 :

This is a decision on the petition filed under 37 CFR 1.182 on 17 August, 2006, requesting that terminal disclaimer(s) filed in Application No. 10/759,678 be withdrawn.

The petition is **dismissed**.

The present petition requests that the terminal disclaimer filed on 16 February, 2006, be withdrawn.

The petition is dismissed because the examiner has determined that the terminal disclaimer does apply to at least one claim of record.

Specifically, the examiner has commented that Claims 1-39 remain rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-13 of US Patent No. 6,796,378 B2 (Reddy et al.) alone or in view of Yamashita et al. '418.

Reddy et al. teach applying his cement composition comprising cationic polymer (cationic derivatized starch), calcium

aluminate, water, and retarder (col.2, line 46) for a well cement. Water can be considered an activator because it activates the hydraulic activity of hydraulic cement to allow it to react and eventually set into a hardened mass. Reddy do not teach explicitly the presence of an accelerator (or activator). However, Yamashita et al. teach conventional additives may be added to cement compositions which include high early strength agents/promoters (which accelerators are). Yamashita et al. teach that KOH, NaOH, and alkanolamines are conventional high early strength additives to cement compositions and its addition to Reddy et al.'s cement composition would have been an obvious design choice for one of ordinary skill in the art. Note that on page 10 [0033] of applicants' specification they teach sodium hydroxide or postassium hydroxide and alkanolamines. Further, applicants' specification teaches high strength at a faster rate by adding these activators. That is the same as a high early strength agent.

As the petition was not necessitated by an error on the part of the USPTO, the fee will not be refuned.

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

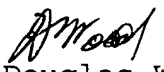
By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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 being referred to Technology Center Art Unit 1755 for further processing.

Telephone inquires should be directed to the undersigned at 571.272.3231.



Douglas Wood
Senior Petitions Attorney
Office of Petitions

Cc: BAKER BOTTS LLP
ONE SHELL PLAZA
910 LOUISIANA
HOUSTON TX 77002

UNITED STATES PATENT AND TRADEMARK OFFICE

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CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN OK 73536-0440

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NOV 13 2006

OFFICE OF PETITIONS

In re Application of :
Reddy et al. :
Application No. 10/759,678 : ON PETITION
Filed: 16 January, 2004 :
Atty Docket No. HES 2003-IP-011937U1 :

This is a decision on the petition filed under 37 CFR 1.182 on 17 August, 2006, requesting that terminal disclaimer(s) filed in Application No. 10/759,678 be withdrawn.

The petition is **dismissed**.

The present petition requests that the terminal disclaimer filed on 16 February, 2006, be withdrawn.

The petition is dismissed because the examiner has determined that the terminal disclaimer does apply to at least one claim of record.

Specifically, the examiner has commented that Claims 1-39 remain rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-13 of US Patent No. 6,796,378 B2 (Reddy et al.) alone or in view of Yamashita et al. '418.

Reddy et al. teach applying his cement composition comprising cationic polymer (cationic derivatized starch), calcium

aluminate, water, and retarder (col.2, line 46) for a well cement. Water can be considered an activator because it activates the hydraulic activity of hydraulic cement to allow it to react and eventually set into a hardened mass. Reddy do not teach explicitly the presence of an accelerator (or activator). However, Yamashita et al. teach conventional additives may be added to cement compositions which include high early strength agents/promoters (which accelerators are). Yamashita et al. teach that KOH, NaOH, and alkanolamines are conventional high early strength additives to cement compositions and its addition to Reddy et al.'s cement composition would have been an obvious design choice for one of ordinary skill in the art. Note that on page 10 [0033] of applicants' specification they teach sodium hydroxide or postassium hydroxide and alkanolamines. Further, applicants' specification teaches high strength at a faster rate by adding these activators. That is the same as a high early strength agent.

As the petition was not necessitated by an error on the part of the USPTO, the fee will not be refuned.

Further correspondence with respect to this matter should be addressed as follows:

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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

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 being referred to Technology Center Art Unit 1755 for further processing.

Telephone inquires should be directed to the undersigned at 571.272.3231.

Douglas Wood
Senior Petitions Attorney
Office of Petitions

Cc: BAKER BOTTS LLP
ONE SHELL PLAZA
910 LOUISIANA
HOUSTON TX 77002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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ATTENTION OF ALAN R. STEWART
MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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APR 12 2006
OFFICE OF PETITIONS

In re Application of :
James J. Solheid, et al. :
Application No. 10/759,680 : ON PETITION
Filed: January 19, 2004 :
Attorney Docket No.: 2316.1011USC1 :

This is a decision on the petition, filed April 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 14, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2839 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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United States Patent and Trademark Office
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Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Gerianne Tringali DiPiano	: DECISION ON REQUEST FOR
Patent Number	: 7591808	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/759,695	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **342** 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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PILLSBURY WINTHROP SHAW PITTMAN LLP
PO BOX 10500
MCLEAN VA 22102

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JUN 30 2008

OFFICE OF PETITIONS

In re Application of :
Yang, et al. :
Application No. 10/759,704 : ON PETITION
Filed: January 15, 2004 :
Attorney Docket No. 019287-0324127 :

This is in response to the "PETITION UNDER 37 CFR 1.182 TO CHANGE NAME OF APPLICANT", filed January 11, 2008.

Applicants have requested to correct the name of inventor Sung-Joon Moon to Sungjoon Moon. Included was a declaration from Moon, explaining that he legally changed his name. Also included was a copy of a supporting court document.

Accordingly, the request is **GRANTED**.

Office records have been changed to reflect the change in the inventor's name.

The file is being forwarded to the Office of Data Management to await applicants' submission of the issue fee in response to the Notice of Allowance mailed April 29, 2008.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Patrick Vogel	: DECISION ON REQUEST FOR
Patent Number	: 7599412	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/759,727	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1535** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
Oren A. Mosher et al. :
Application No. 10/759,732 : DECISION ON PETITION
Filed: January 15, 2004 : TO WITHDRAW
Attorney Docket No. 017761-00361OUS : 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 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 attorneys/agents associated with customer number 20350. 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).

Mark D. Barrish signed the request on behalf of all attorneys of record.

Mark D. Barrish and all attorneys/agents associated with application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: SURx Inc
2675 Collier Canyon Road
Livermore, CA 94550

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/759,732	01/15/2004	Oren A. Mosher	017761-003610US

CONFIRMATION NO. 6876

OC000000020408861

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 09/13/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/05/2006.

- 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.

Charles Smoot

CHARLES SMOOT
OP (571) 272-3299

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : 3/31/08

Patent No. : 7315762 B2
Application No : 10/759732
Inventor(s) : Mosher et al.
Issued : Jan. 1, 2008
Title : **NON-SURGICAL INCONTINENCE TREATMENT SYSTEM AND METHOD**
Docket No. : 687-3101/US

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 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).

In view of the foregoing, your request is hereby denied.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS MN 55402

MFD/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS, MN 55402

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OCT 15 2008

OFFICE OF PETITIONS

In re Patent No. 7,315,762
Issue Date: January 1, 2008
Application No. 10/759,732
Filed: January 15, 2004
Attorney Docket No. 687-3101/US

ON PETITION

This is a decision on the petition filed May 30, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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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EDWARD D. GILHOOLY
28 E. JACKSON BLVD.
SUITE 423
CHICAGO IL 60604

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OCT 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Richard, Phelan	:	
Application No. 10/759,733	:	ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. 710P467DIV	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 6, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed April 22, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 23, 2004. A Notice of Abandonment was mailed on January 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 the filing fee and late surcharge; (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.

Petition submitted $500.00 towards payment of the filing fee. The filing fee is only $395.00. Accordingly, the excess $105.00 will be refunded to petitioner via treasury check in due course.

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GENOMICS INSTITUTE OF THE
NOVARTIS RESEARCH FOUNDATION
10675 JOHN JAY HOPKINS DRIVE,
SUITE E225
SAN DIEGO CA 92121-1127

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APR 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Yinghe Hu et al	:	
Application No. 10/759,740	:	DECISION GRANTING PETITION
Filed: January 16, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. P1125US00	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of September 28, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 28 2006

Group 3700

M. Robert Kestenbaum
11011 Bermuda Dunes NE
Albuquerque, New Mexico 87111

In re Application of: EBERSPACHER :
Appl. No.: 10/759,754 : DECISION ON PETITION
Filed: January 16, 2004 :
For: DEVICE FOR AIR CONDITIONING :
A VEHICLE

This is a decision on the petition filed on March 4, 2006 by which petitioners request acceptance of a duplicate paper. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

On August 25, 2005 an Office Action was issued in the instant file. An amendment under 37 CFR 1.112 and information disclosure statement were allegedly filed by petitioner on November 23, 2005. This paper was not received by the Office, nor did petitioner receive a return postcard acknowledging receipt of the paper. Petitioner has submitted an evidentiary copy of the November 23, 2005 submission which includes a certificate of mailing under 37 CFR 1.8. Petitioner has also included a statement attesting to the timely mailing of the correspondence. Based upon this evidence, the duplicate paper is accepted.

The file will be forwarded to the examiner of record for consideration of the November 23, 2005 amendment under 37 CFR 1.112 and information disclosure statement in due course.

PETITION GRANTED

Karen M. Young

Karen Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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JUL 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Stan Chen :
Application No. 10/759,761 : DECISION ON PETITION
Filed: January 16, 2004 : TO WITHDRAW
Attorney Docket No. 23724-07837 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed February 1, 2007.

The request is **APPROVED**.

A review of the file record indicates that Fenwick & West, LLP: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Fenwick & West, LLP has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

[The request 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) the intervening assignee of the entire interest. All future communications from the Office will be directed to the first named signing inventor under 37 C.F.R. §3.71 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).

Applicant is reminded that there is no attorney of record at this time.

There are no pending Office actions at the present time.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: STAN CHENG
3F, NO. 16 LANE 180, SEC 2
FU-HSIN S. RD
TAIPEI, TAIWAN

cc: MR. VINCENT LEE
JAN-HWA INTERNATION PATENT
& TRADEMARK & LAW OFFICES
10-1FL., NO 23, SEC 1
CHANG-AN E. ROAD
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TAIWAN, R.O.C.

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/759,761	01/16/2004	Stan Cheng	23724-07837

CONFIRMATION NO. 8366

OC000000024699587

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 07/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/01/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JOE MCKINNEY MUNCY
PO BOX 1364
FAIRFAX, VA 22038-1364

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Stan CHENG :
Application No. 10/759,761 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. 2450/1677PUS1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 15, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

The terminal disclaimer is accepted and has been made of record.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2629 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Thurman Page
Petitions Examiner
Office of Petitions

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THOMAS P. GRODT
FOREMAN CORCORAN TORR GRODT & GERRIN PA
P O BOX 1330
74 GILCHRIST ROAD
LONDONDERRY, NH 03053

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MAR 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Nandakumar Vaidyanthan et al :
Application No. 10/759,765 : DECISION GRANTING PETITION
Filed: January 16, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 59656-010100 :

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 in a timely manner to the non-final Office action mailed April 21, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 22, 2005. A Notice of Abandonment was mailed on November 15, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (an amendment); (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of April 21, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 2854 for appropriate action on the reply received to the April 21, 2005 Office action.

Frances Hicks
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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CHARLES J. KULAS
651 ORIZABA AVE.
SAN FRANCISCO, CA 94132

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FEB 2 2 2007

OFFICE OF PETITIONS

In re Application of

Maria Masae Kulas

Application No. 10/759,775

Filed: January 16, 2004

Attorney Docket No. CJK-14

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely response to the final Office action mailed December 29, 2005, which set a shortened statutory period for reply of three-months from its mailing date. A response was filed on June 5, 2006, with a request fro an extension of time within the second month. An Advisory Action mailed June 13, 2006, indicated that the June 5, 2006, response failed to place the application in condition for allowance. A Request for Continued Examination (RCE) was filed on June 26, 2006, along with a request for an extension of time within the third month. The correct fee did not accompany the RCE. The application became abandoned on June 30, 2006. A Notice of Abandonment was mailed August 7, 2006.

The Request for Continued Examination and amendment filed June 26, 2006, is noted. The fee for the RCE is noted as being received on August 29, 2006.

The application file 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

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Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

DEC 0 6 2004

Technology Center 2100

In re Application of:
Jimi T. JORGENSEN, et al.
Application No. 10/759,789
Filed: January 16, 2004
For: PERVASIVE, USER-CENTRIC NETWORK SECURITY ENABLED BY DYNAMIC DATAGRAM SWITCH AND AN ON-DEMAND AUTHENTICATION AND ENCRYPTION SCHEME THROUGH MOBILE INTELLIGENT DATA CARRIERS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed August 31, 2004.

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.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Richard G. A. Bone
Morgan & Bockius LLP
2 Palo Alto Square, Suite 700
3000 El Camino Real
Palo Alto, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN - 3 2005

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

In re Application of	:
Daniel E. H. Afar et al	:
Serial No.: 10/759,803	: PETITION TO MAKE SPECIAL
Filed: January 16, 2004	:
Attorney Docket No.: 511582001310	:

This is in response to the petition filed January 16, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, XII. Therefor the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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JUN - 3 2005

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

In re Application of	:
Daniel E. H. Afar et al	:
Serial No.: 10/759,803	: PETITION TO MAKE SPECIAL
Filed: January 16, 2004	:
Attorney Docket No.: 511582001310	:

This is in response to the petition filed January 16, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, XII. Therefor the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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JONATHAN SPANGLER
NU VASIVE, INC.
4545 TOWNE CENTRE COURT
SAN DIEGO CA 92121

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of :
Miles et al. :
Application No. 10/759811 :
Filed: 01/16/2004 :
Attorney Docket No. 039US1 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed on December 10, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 27, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of April 24, 2008 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3231.

This application is being referred to Technology Center Art Unit 3732 for further processing.

Douglas I. Wood
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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/759,811	01/16/2004	Patrick Miles	039US1

CONFIRMATION NO. 8249

30328
JONATHAN SPANGLER
NU VASIVE, INC.
4545 TOWNE CENTRE COURT
SAN DIEGO, CA 92121

NONPUBLICATION RESCISSION LETTER

OC000000027729500

Date Mailed: 01/16/2008

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 04/24/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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HENRY W. CUMMINGS
3313 W. ADAMS ST.
ST. CHARLES, MO 63301

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JUL 11 2005

OFFICE OF PETITIONS

In re Application of :
Robert D. Porter :
Application No. 10/759,822 : ON PETITION
Filed: January 20, 2004 :
Attorney Docket No. RDP-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 15, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 29, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 30, 2005.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2859.

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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APR 27 2006

OFFICE OF PETITIONS

ROBERT D. PORTER
1384 KENSINGTON WAY DRIVE
ELLISVILLE, MO 63011

In re Application of :
Porter : DECISION ON PETITION
Application No. 10/759,822 :
Filed: January 20, 2004 :
For: THREAD SETTING PLUG GAGE :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed March 27, 2006.

The petition is hereby **DISMISSED**.

This application was became abandoned October 26, 2005 for failure to timely submit a proper reply to the non-final Office action mailed July 25, 2005. Notice of Abandonment was mailed February 10, 2006.

Petitioner alleges non-receipt of the non-final Office action, but has failed to provide sufficient documentary evidence of non-receipt.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing of the non-final Office action[1]. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the 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

[1] The revocation of power of attorney and change of correspondence address submitted March 27, 2006 have been entered into the record.

Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

The instant petition lacks the requisite statements referenced above and is not supported by the required copy of prior practitioner's docketing records.

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 enclosed for additional guidance.

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

Enclosures: Form/PTO Privacy Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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ASHKAN NAJAFI, P.A.
6817 SOUTHPOINT PARKWAY
SUITE 2301
JACKSONVILLE FL 32216

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FEB 0 7 2007

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,846,083	:	
Issued: January 25, 2005	:	
Application No. 10/759,836	:	
Filed: January 20, 2004	:	
Attorney Docket No. SAM325	:	

This is a decision on the petition under 37 CFR 1.182, filed February 7, 2005 requesting issuance of a duplicate Letters Patent for the above-identified application with the correct spelling of the inventor's last name.

The petition is **GRANTED**.

A review of the Letters Patent issued on January 25, 2005, confirms that the inventor's last name was incorrectly spelled as MYLAR, rather than the proper MYLER, by the USPTO.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction and a reprinting of the front page of the Letters Patent.

Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Corrections Branch at (703) 305-8309.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATTERSON, BARDEN
Patterson & Sheridan, LLP
3040 Post Oak Boulevard
Suite 1500
Houston, TX 77056--658

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of :
GRAHAM, et al. :
Application No. 10/759,841 : DECISION ON PETITION
Filed: January 15, 2004 : TO WITHDRAW
Attorney Docket No. 546322000302 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 12, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that B. Todd Patterson does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc:

MORRISON & FOERSTER LLP
425 Market Street
San Francisco, CA 24105-2482

cc:

PATTON BOGGS, L.L.P.
8484 Westpark Dr., Suite 900
McLean, VA 22102

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MORGAN, LEWIS & BOCKIUS, LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO CA 94105

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AUG 0 1 2008

In re Application of :
Daniel L. Gasper :
Application No. 10/759,844 : DECISION ON PETITION
Filed: January 15, 2004 :
Attorney Docket No. 67575-5006 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Rejection mailed September 14, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on December 15, 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 After Non-Final Rejection, (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 3782 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Law Offices of Raymond Sun
12420 Woodhall Way
Tustin CA 92782

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AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Yu Zheng :
Application No. 10/759,847 : DECISION DISMISSING PETITION
Filed: January 15, 2004 :
Attorney Docket No. :
PAT1192CIP3DIVCON :
Title of Invention: Collapsible :
Structures Having Overlapping :
Support Loops

This is a decision on the petition filed May 18, 2004, requesting in effect, that a Notice of Omitted Parts in a Nonprovisional Application ("Notice") mailed April 21, 2004, be withdrawn.

The petition is dismissed.

The application was filed on January 15, 2004. However, on April 21, 2004, the Office of Initial Patent Examination (OIPE) mailed the "Notice" stating that the application had been accorded a filing date of January 15, 2004 and advising applicant that figure 10 as described in the specification appeared to have been omitted.

In response, on May 18, 2004, applicant filed the present petition and a copy of applicant's postcard receipt acknowledging receipt of thirty-eight (38) sheets (Figs. 1-24) of drawings on January 15, 2004. Additionally, applicant submitted a copy of thirty-nine (39) sheets of drawings. Petitioner argues figures 1-24 were submitted on January 15, 2004.

A review of the record shows that thirty-eight (38) sheets of drawings were filed on January 15, 2004 and are presently in the file. Thus the file shows no sheets of drawings containing figure 10 was filed on January 15, 2004.

It is noted that the postcard refers to thirty-eight (38) sheets of drawings but the official record clearly shows that the 38 sheets of drawings did not contain figure 10. Assuming arguendo that applicant's postcard receipt could be said to constitute *prima facie* evidence that figure 10 was received in the Office on January 15, 2004, the evidence is rebuttable, not conclusive. In

this case the evidence is rebutted by the fact that applicant has submitted one sheet of drawing which was not present on January 15, 2004. Petitioner states figure 10 was present amongst the 38 sheets filed on January 15, 2004. Petitioner has submitted thirty-nine (39) sheets of drawings which includes figure 10 with the instant petition. However both the postcard and the application transmittal sheet only itemize 38 sheets of drawings. A comparison of 39 sheets of drawings submitted with the instant petition shows they mirror the drawings submitted on January 15, 2004 except figure 10 is not present thus only 38 sheets of drawings were submitted. The facts and evidence at hand rebut the postcard receipt to the extent that figures 1-24 were not submitted.

Since the petition does not request that the application be accorded the date of receipt of the drawing containing figure 10 as the filing date, the application will be processed with a filing date of January 15, 2004, using the thirty-eight (38) sheets of drawings filed on that date.

An amendment canceling references to figure 10 in the specification should be filed prior to the first Office action in order to avoid further delays in the examination of the application.

The drawing containing figure 10 submitted on May 18, 2004 will not be entered.

The application will then be returned to the Office of Initial Patent Examination for further processing with a **filing date of January 15, 2004**, using the 38 sheets of drawings supplied on January 15, 2004.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Paper No.

HUNTLEY & ASSOCIATES
1105 NORTH MARKET STREET
P.O. BOX 948
WILMINGTON, DE 19899-0948

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DEC 14 2004

OFFICE OF PETITIONS

In re Application of :
Hitoshi Shirasaka :
Application No. 10/759,851 : DECISION ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. Hokushin-3II :

This is a decision on the PETITION UNDER 37 C.F.R. 1.181 filed November 3, 2004. Applicant requests that the above-identified nonprovisional application be accorded a filing date of January 16, 2004. Further, if the original filing date is granted, then the petition fee of $130 be refunded.

The petition is **GRANTED**.

The request for refund is **GRANTED**.

Application papers in the above-identified nonprovisional application were deposited on January 16, 2004. However, on October 19, 2004, the Initial Patent Examination Division mailed applicant a "Notice of Incomplete Nonprovisional Application," stating that the application papers deposited January 16, 2004 had not been accorded a filing date because the application was deposited without drawings. (In addition, the Notice required the filing of an executed oath or declaration.)

In response, applicant filed the instant petition. Petitioner states that the drawing indicated (in the specification) is not necessary for the understanding of the subject matter sought to be patented.

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. 111(a)(4) provides that:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

However, as stated in MPEP 601.01(f)

> It has been USPTO 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).

In regards to withdrawing the Notice, MPEP § 601.01(f) also states that:

> a nonprovisional application having at least one claim ..., directed to subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

And, MPEP § 601.01(g) further provides that:

> If the application is filed without all of the drawing figure(s) referred to in the specification, ..., OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

DISCUSSION

A review of the application confirms that as filed it contained at least one method claim. Pursuant to § 601.01(f), a drawing is not considered essential for a filing date. Thus, the application is entitled to a filing date without drawings present in the application.

However, as the specification in the instant nonprovisional application contained reference to drawing figure 1 (Brief Description of Drawings, p. 4 of Specification), mailing of a Notice requiring submission of the drawing was appropriate. The Office should have mailed a "Notice of Omitted Items" rather than a "Notice of Incomplete Nonprovisional Application." To the extent that the Notice stated that the instant application is not entitled to a filing date, the "Notice of Incomplete Nonprovisional Application" mailed October 19, 2004, was mailed in error and is hereby **withdrawn**.

In view thereof, the application as originally deposited without drawings is entitled to a filing date of January 16, 2004.

Given the basis for granting the petition, the petition fee is being refunded by Treasury Check under separate cover.

CONCLUSION

The Office of Initial Patent Examination (OIPE) has been advised of this decision. Pursuant to this decision, the application has been referred to OIPE for **correction of the filing date to January 16, 2004** and for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,853	01/15/2004	Patrick E. Guire	9896.141.3.1	8747

22859 7590 02/02/2005

INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS, MN 55402

EXAMINER	
BOYKIN, TERRESSA M	

ART UNIT	PAPER NUMBER
1711	

DATE MAILED: 02/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FEB 2 2005

In re Application of :
GUIRE, PATRICK E. :
Serial Number : 10/759853 : WITHDRAWAL
Filed : January 15, 2004 : FROM
For : SELF ASSEMBLING MONO- : ISSUE
LAYER COMPOSITIONS :

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.

Telephone inquiries should be directed to Jim Seidleck at (571) 272-1078.

The application is being forwarded to the examiner for action.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS MN 55402

cc:Allowed Files, Pk3-915

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No:__

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JUL 10 2006

OFFICE OF PETITIONS

ANDERSON KILL & OLICK P.C.
1251 AVENUE OF THE AMERICAS
NEW YORK NY 10020

In re Application of :
Fujikawa, et al. : DECISION
Application No. 10/759,868 :
Filing Date: 15 January, 2004 :
Attorney Docket No.: MM4658 :

This is a decision on the petition filed on 26 August, 2005, and 13 March, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petitions were received by the attorneys in the Office of Petitions only at this writing.

NOTE:

Monitoring of the status of applications on Private PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

As discussed herein, Petitioner avers non-receipt of an Office action, however, as is appears from the record, Petitioner failed from the date of deposit of the application with the Office on 15 January, 2004, until the filing of the oath/declaration on 25 August, 2005, to inform the Office properly as to a correspondence address for the instant matter. Moreover, it also appears that Petitioner failed to file even a single Status Inquiry in the nineteen (19) months between date of deposit and the initial filing of the instant petition. Such 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 because regulatory requirements require the filing of such a petition within two (2) months of the act complained of, to wit: the abandonment which took place by operation of law after midnight 9 October, 2004.

On the basis of the record indication that the 9 August, 2004, Notice of Missing Parts was not mailed to Petitioner at a proper address, the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Missing Parts mailed on 9 August, 2004, with reply due absent an extension of time on or before Monday, 11 October, 2004;
- the application went abandoned after midnight 9 October, 2004
- it appears that the Notice of Missing Parts was returned as undelivered/undeliverable, and upon review of the application it is appears that at no point in the application did the Petitioner provide the Office with a correspondence address for the application;[1]

---

[1] The commentay at MPEP §403 provides:

403 Correspondence — With Whom Held [R-3]
37 CFR 1.33. Correspondence respecting patent applications, reexamination proceedings, and other proceedings.
*(a) **>Correspondence address and daytime telephone number.* When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered patent attorney or patent agent, or with more than one registered patent attorney or patent agent except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if given, over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:<
(1) *Prior to filing of § 1.63 oath or declaration by any of the inventors.* If a § 1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a registered attorney or agent, any other registered practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any registered practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.
(2) *Where a § 1.63 oath or declaration has been filed by any of the inventors.* If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).
(b) *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
(1) **>A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);<
(2) **>A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34<;
(3) An assignee as provided for under § 3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.
(c) **>All notices, official letters, and other communications for the patent owner or owners in a reexamination proceeding will be directed to the attorney or agent of record (*see* § 1.32(b)) in the patent file at the address listed on the register of patent attorneys and agents maintained pursuant to §§ 11.5 and 11.11 of this subchapter, or if no attorney or agent is of record, to the patent owner or owners at the address or addresses of record. Amendments and other papers filed in a reexamination proceeding on behalf of the patent owner must be signed by the patent

owner, or if there is more than one owner by all the owners, or by an attorney or agent of record in the patent file, or by a registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34. Double correspondence with the patent owner or owners and the patent owner's attorney or agent, or with more than one attorney or agent, will not be undertaken. If more than one attorney or agent is of record and a correspondence address has not been specified, correspondence will be held with the last attorney or agent made of record<.
(d) A "correspondence address" or change thereto may be filed with the Patent and Trademark Office during the enforceable life of the patent. The "correspondence address" will be used in any correspondence relating to maintenance fees unless a separate "fee address" has been specified. See § 1.363 for "fee address" used solely for maintenance fee purposes.

37 CFR 1.33(a) provides for an applicant to supply an address to receive correspondence from the U.S. Patent and Trademark Office so that the Office may direct mail to any address of applicant's selection, such as a corporate patent department, a firm of attorneys or agents, or an individual attorney, agent, or other person.

37 CFR 1.33(a) provides that in a patent application the applicant must specify a correspondence address to which the Office will send notices, letters and other communications relating to the application. The correspondence address must appear either in an application data sheet (37 CFR 1.76) or in a clearly *>identifiable< manner elsewhere in any papers submitted with an application filing. Where more than one correspondence address is specified, the Office will determine which one to establish as the correspondence address. This is intended to cover>, for example,< the situation where an application is submitted with multiple addresses, such as one correspondence address being given in the application transmittal letter, and a different one in an accompanying 37 CFR 1.63 oath or declaration, or other similar situations. The determination of which of the correspondence addresses to use will be made on a case-by-case basis, considering such factors as the earliest correspondence address submitted, and the first listed correspondence address if conflicting addresses appear in the same declaration. >If more than one correspondence address is specified in a single document, the Office will use the address associated with a Customer Number over a typed correspondence address.<

37 CFR 1.33(a) requests the submission of a daytime telephone number of the party to whom correspondence is to be addressed. While business is to be conducted on the written record (37 CFR 1.2), a daytime telephone number would be useful in initiating contact that could later be reduced to writing. The telephone number would be changeable by any party who could change the correspondence address.

37 CFR 1.33(a)(1) provides that any party filing the application and setting forth a correspondence address could later change the correspondence address provided that a 37 CFR 1.63 oath/declaration by any of the inventors has not been submitted. If one joint inventor filed an application, the person who may change the correspondence address would include only the one inventor who filed the application, even if another inventor was identified on the application transmittal letter. If two of three inventors filed the application, the two inventors filing the application would be needed to change the correspondence address. Additionally, any registered practitioner named in the application transmittal letter, or a person who has the authority to act on behalf of the party that will be the assignee (if the application was filed by the party that will be the assignee), could change the correspondence address. A registered practitioner named in a letterhead would not be sufficient, but rather a clear identification of the individual as being a representative would be required. A company (to whom the invention has been assigned, or to whom there is an obligation to assign the invention) who files an application, is permitted to designate the correspondence address, and to change the correspondence address, until such time as a (first) 37 CFR 1.63 oath/declara-tion is filed. The mere filing of a 37 CFR 1.63 oath/ declaration that does not include a correspondence address does not affect any correspondence address previously established on the filing of the application, or changed per 37 CFR 1.63(a)(1), even if the application was filed by a company that is only a partial assignee. The expression "party that will be the assignee," rather than assignee, is used in that until a declaration is submitted, inventors have only been identified, and any attempted assignment, or partial assignment, cannot operate for Office purposes until the declaration is supplied. Hence, if the application transmittal letter indicates that the application is being filed on behalf of XYZ company, with an assignment to be filed later, XYZ company would be allowed to change the correspondence address without resort to 37 CFR 3.73(b) until an executed oath or declaration is filed, and with resort to 37 CFR 3.73(b) after the oath or declaration is filed.

Where a correspondence address was set forth or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of a 37 CFR 1.63 oath or declaration), that correspondence address remains in effect upon filing of a 37 CFR 1.63 declaration and can then only be changed pursuant to 37 CFR 1.33(a)(2).

37 CFR 1.33 states that when an attorney >or agent< has been duly appointed to prosecute an application>,< correspondence will be held with the attorney >or agent< unless some other correspondence address has been given. >If an attorney or agent of record assigns a correspondence address which is different than an address where the attorney or agent normally receives mail, the attorney or agent is reminded that 37 CFR 10.57 requires the attorney or agent to keep information obtained by attorney/agent – client relationship in confidence.< Double correspondence with an applicant and his or her attorney, or with two representatives, will not be undertaken. See MPEP § 403.01, § 403.02, and § 714.01(d).

If double correspondence is attempted, form paragraph 4.01 should be included in the next Office action.

¶ 4.01 Dual Correspondence

Applicant has appointed an attorney or agent to conduct all business before the Patent and Trademark Office. Double correspondence with an applicant and applicant's attorney or agent will not be undertaken. Accordingly, applicant is required to conduct all future correspondence with this Office through the attorney or agent of record. See 37 CFR 1.33.

* * *

I. < CUSTOMER NUMBER PRACTICE

A Customer Number (previously a "Payor Number") may be used to:

(A) designate the correspondence address of a patent application **>or patent< such that the correspondence address for the patent application >or patent< would be the address associated with the Customer Number >(37 CFR 1.32(a)(4)(i))<;

(B) designate the fee address (37 CFR 1.363) of a patent ** such that the fee address for the patent would be the address associated with the

Customer Number >(37 CFR 1.32(a)(4)(ii))<; and
(C) submit a list of practitioners ** such that ** those practitioners associated with the Customer Number >would have power of attorney (37 CFR 1.32(a)(4)(iii))<.

Thus, a Customer Number may be used to designate the address associated with the Customer Number as the correspondence address of an application (or patent) or the fee address of a patent, and may also be used to submit a power of attorney in the application (or patent) to the registered practitioners associated with the Customer Number.
Applicant may use either the same or different customer number(s) for the correspondence address, the fee address and/or a list of practitioners. The customer number associated with the correspondence address is the Customer Number used to obtain access to the Patent Application Information Retrieval (PAIR) system at http://pair.uspto.gov. See MPEP § 1730 for additional information regarding PAIR.

* * *

The Office will also accept requests submitted electronically *via* a computer-readable diskette to **change the correspondence address of a list of applications or patents or the fee address for a list of patents to the address associated with a Customer Number**>.<

Such electronic requests must be submitted in the manner set forth in the Notice entitled "Extension of the Payor Number Practice (through "Customer Numbers") to Matters Involving Pending Patent Applications," published in the *Federal Register* at 61 FR 54622, 54623-24 (October 21, 1996), and in the *Official Gazette* at 1191 O. G. 187, 188-89 (October 29, 1996). >Note that such electronic requests are no longer accepted to change the power of attorney in a patent application or patent. See the notice entitled "Notice of Elimination of Batch Update Practice to Change Power of Attorney," published in the *Official Gazette* at 1272 O.G. 24 (July 1, 2003).<

**>With Customer Number practice, a< patentee **>is also< able to designate a "fee address" for the receipt of maintenance fee correspondence, and a different address for the receipt of all other correspondence. The designation of a "fee address" by reference to a Customer Number will not affect or be affected by the designation of a correspondence address by reference to another Customer Number, in that the Office will send maintenance fee correspondence to the address associated with the Customer Number designated as the "fee address" and will send all other correspondence to the address associated with the Customer Number designated as the correspondence address.

The association of a list of practitioners with a Customer Number will permit an applicant to appoint all of the practitioners associated with the Customer Number merely by reference to the Customer Number in the Power of Attorney (i.e., without individually listing the practitioners in the Power of Attorney). The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number >by submitting a corresponding "Request for Customer Number Data Change" (PTO/SB/124)< will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant >or assignee of the entire interest of the applicant< who appointed all of the practitioners associated with such Customer Number. This will avoid the necessity for the filing of additional papers in each patent application affected by a change in the practitioners of the law firm prosecuting the application. The appointment of practitioners associated with a Customer Number *>is< optional, in that any applicant may continue to individually name those practitioners to represent the applicant in a patent application>, so long as fewer than ten patent practitioners are named. See 37 CFR 1.32(c)(3)<.

The Customer Number practice does not affect the prohibition against, and does not amount to, an appointment of a law firm (rather than specified practitioners). The Office prohibits an appointment of a specified law firm because the Office cannot ascertain from its records whether a particular practitioner submitting a paper to the Office is associated with the law firm specified in an appointment. The Office will permit an appointment of all of the practitioners associated with a specified Customer Number because the Office can ascertain from its records for the specified Customer Number whether a particular practitioner is associated with that Customer Number.

As the Office will not recognize more than one correspondence address (37 CFR 1.33(a)), any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any othercorrespondence address provided in that application would be resolved in favor of the address of the Customer Number. Due to the prohibition against dual correspondence in an application (37 CFR 1.33(a)), an applicant will be permitted to provide only a single number at a time as the Customer Number for the correspondence address.

Where an applicant appoints all of the practitioners associated with a Customer Number as well as a list of individually named practitioners, such action would be treated as only an appointment of all of the practitioners associated with a Customer Number due to the potential for confusion and data entry errors in entering registration numbers from plural sources. >Furthermore, Office computer systems do not allow for entry of both a power of attorney to a list of practitioners associated with a Customer Number and a list of practitioners.<
Although Customer Numbers are designed to designate both a correspondence address and to associate one or more patent attorneys or agents with an application, one Customer Number may be used for the correspondence address, and another Customer Number may be used for the power of attorney.

Applicants are strongly cautioned not to attempt to appoint more than one Customer Number for a particular purpose (e.g., correspondence address) in a single communication, as such action will **not** have a cumulative effect.

The Office has created a *>Mail Stop< designation for correspondence related to a Customer Number ("**>Mail Stop EBC<"), and all correspondence related to a Customer Number (e.g., requests for a Customer Number) should be addressed to this *>mail stop< designation. The following persons are authorized to change the information associated with an established Customer Number: (1) a registered practitioner associated with the Customer Number; and (2) the person who requested the Customer Number (signed the Request for Customer Number, Form PTO/SB/125).

* * *

- the Office mailed the Notice of Abandonment on 12 May, 2005, but, again, there was an incomplete address for the mailing–for the same reason set forth above;

- on 26 August, 2005, Petitioner filed the instant petition, with, *inter alia*, an oath/declaration–but failed to file corrected drawings as required and failed to Notice the Office as to the change of address from no address to Petitioner's office address;

- on 13 September, 2005, the Office mailed a Notice indicating that the drawings requirement had not been satisfied, as well as a Notice withdrawing the 12 May, 2005, Notice of Abandonment;

- on 15 September, 2005, the mailings from the Office again were returned for the same reason set forth above;

- on 13 March, 2006, Petitioner re-asserted the instant petition–and again failed to Notice the Office properly of the correct correspondence address for the instant matter;

- nonetheless, the Office inserted Petitioner's office address as the correspondence address and on 28 March, 2006, re-mailed the Notice to File Corrected Application papers and also mailed a withdrawal of the August 2004 Notice to File Missing Parts;

- on 31 May, 2006, Petitioner filed corrected drawings, along with a request and fee for extension of time.

Petitioner avers in his petition–apparently with all seriousness–that: "[a]t the time of filing this application on January 15, 2004, applicant's address was clearly shown on the Express Mail label as well as on the return receipt postcard (copies of both attached hereto) which was received from the U.S. Patent [and Trademark] Office after being stamped received, proving that the Patent Office did indeed have the correct address on file."

As one long registered to practice before the Office, Petitioner well knows that a return address on an Express Mail label and on a receipt card–neither of which documents are entered into the record upon receipt–are not the proper sources from which the correspondence address is to be drawn 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 are reminded to inquire into the

underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

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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, 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

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.

(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]

Further, the commentary at MPEP §711.03(c) provides:

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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.

[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).

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat.

1988). (Emphasis supplied.)

* * *

And the regulation (37 C.F.R. §1.181[10]) requires that relief be sought within two (2) months of the act complained of.

While Petitioner makes no averment as to a search of his files for the documents in question, the facts that:

- the Office did not update the power of attorney–and so the correspondence address–in response to the 31 August, 2004, filing; and

- thus the 29 July, 2005, Restriction requirement was mailed to an incorrect address,

From the documents of record it appears that Petitioner did not on filing make it possible for the Office to mail Office actions to the correct correspondence address because Petitioner appears never to have provided such an address until at least 26 August, 2005, and on doing so at that time did not provide to the Office such Notice as is required in practice before the Office. As a result, the Office actions were not mailed to Petitioner's office address. And for that reason, as noted above on 13 September, 2005, the Office of Initial Patent Examination withdrew the 12 May, 2005, Notice of Abandonment.

---

[10] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Director.

<>

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Director.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 hereby is **dismissed as moot**.

The instant application is released to OIPE for such processing as required before being forwarded for substantive examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20060802

DATE : May 24, 2006

TO SPE OF : ART UNIT 1636 (S.P.E. Irem Yucel)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/759,889 Patent No.: 6943028

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**.

STACY POWELL

Certificates of Correction Branch

703-308-9390 ext. 120

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: _____

_____

_____

_____

_____

Remy Yucel

SPE

1636

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : August 01, 2006 **Pap r No.:**

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction on Patent No.: 6,943,028

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:

C rtificate 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 appropriate box.

- ☑ **Approved** — **All** Changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

SPE: [signature] **Art Unit** 1636

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ALLISON JOHNSON, P.A.
LAKE CALHOUN EXECUTIVE CENTER
3033 EXCELSIOR BLVD., SUITE 467
MINNEAPOLIS, MN 55416

COPY MAILED

AUG 14 2006

OFFICE OF PETITIONS

In re Application of
Mary Aldritt et al.
Application No. 10/759,892
Filed: January 16, 2004
Attorney Docket No. 208-022US1

ON PETITION

This is a decision on the petition filed July 11, 2006, to revive the above identified application under 37 CFR 1.137(b)[1].

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned on January 13, 2006, for failure to file a timely response to a Restriction Requirement mailed December 12, 2005, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed July 13, 2006, after the filing of the instant petition.

The petition fee in the amount of $750.00 has been applied to the finance records for the instant patent application.

The response to the Restriction Requirement filed July 11, 2006 will be referred to Technology Center 1655 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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LAKE CALHOUN EXECUTIVE CENTER
3033 EXCELSIOR BLVD., SUITE 467
MINNEAPOLIS MN 55416

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SEP 18 2008

In re Application of :
Mary Aldritt, et al. :
Application No. 10/759,892 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. 208-022US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 2, 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 15, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 16, 2007. The Notice of Abandonment was mailed December 12, 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 $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1655 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Chris Bottorff
Petitions Examiner
Office of Petitions

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

Mail Date: 04/21/2010

Applicant	: Alex Zarenin	: DECISION ON REQUEST FOR
Patent Number	: 7640546	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/759,901	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1251** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

MAIL

APR 2 7 2005

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2600**

In re Application of :
Calum Macrae :
Application No. 10/759,927 :
Filed: :
For: **SINGLE WIRE INTERFACE FOR LCD CALIBRATOR** :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed February 2, 2005 under 37 CFR §1.102(d) to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(571) 272-7288

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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
10/759,927	01/16/2004	2674	1230	100628.52908US	4	36	5

CONFIRMATION NO. 8202

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

CORRECTED FILING RECEIPT

OC000000015851667

Date Mailed: 04/25/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Calum Macrae, Sunnyvale, CA;

Assignment For Published Patent Application

Maxim Integrated Products, Inc.

Power of Attorney:

Herbert Cantor–24392
Donald Evenson–26160
Joseph Evans–26269
Roger May–26406
George Fountain–36374

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/21/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/759,927

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Single wire interface for LCD calibrator

Preliminary Class

345

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
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Vijaylaxmi Chakravarty	: DECISION ON REQUEST FOR
Patent Number	: 7614007	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/759,932	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1183** 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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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 05/17/2010

Applicant : Vijaylaxmi Chakravarty
Patent Number : 7614007
Issue Date : 11/03/2009
Application No: 10/759,932
Filed : 01/16/2004

: 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 **1279** 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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OFFICE OF PETITIONS

Leffert Jay & Polglaze, P.A.
P.O. Box 581009
Minneapolis, MN 55458-1009

In re Application of :

Gene Anderson :
Application No. 10/759,952 : DECISION ON PETITION
Filed: January 16, 2004 : TO WITHDRAW
Attorney Docket No. 161.001US02 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 18, 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 Daniel J. Polglaze on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

The application became abandoned for failure respond to the Office action mailed April 20, 2006.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
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 NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/759,952	01/16/2004	Gene Anderson	161.001US02

CONFIRMATION NO. 8187

OC000000021330922

OC000000021330922

27073
LEFFERT JAY & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

Date Mailed: 11/22/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/18/2006.

- 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.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

MAILED
APR 15 2005
Technology Center 2100

In re Application of: Braun, et al.
Application No. 10/759,960
Filed: January 16, 2004
For: SYSTEM AND METHOD FOR A DIRECTORY SECURED USER ACCOUNT

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 16 January 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

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 16 January 2004 fails to adequately meet requirements (b) and (e) of the criteria set forth above. With respect to requirement (b), applicant has failed to make the statement that "Applicant will make an election without traverse as a prerequisite to the grant of special status if the Office determines that all the claims are not obviously directed to a single invention". With respect to item (e), there is no detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). The discussion of the references is confusing. Petitioner states that the "claims recite limitations that are not disclosed, taught, or suggested in the references." Petitioner then goes on to state that the references fail to disclose, teach, or suggest essentially all of the limitations of independent claim 1 and fail to disclose, teach, or suggest essentially all of the limitations of independent claim 26. It is not clear if these statements are intended to mean that none of the elements of claims 1 and 26 are disclosed by the prior art or that the entirety of claims 1 and 26 are not disclosed by the prior art. If the intent is the former, it would be difficult to conclude that the search was directed to the claimed invention if essentially *none* of the claim limitations were found in the prior art deemed "most closely related". If the intent is the latter, a statement that the entirety of the two independent claims is not disclosed by the six references purported to be "most closely related" is not a sufficient detailed description. Rather, the detailed discussion should be 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MEDTRONIC, INC.
710 MEDTRONIC PARK
MINNEAPOLIS, MN 55432-9924

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JAN 31 2006

OFFICE OF PETITIONS

In re Application of :
Mark T. Marshall, et al. :
Application No. 10/759,997 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. P-20093.00 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 9, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 3, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned at midnight on August 3, 2005.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment (submitted on November 4, 2005); (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed December 9, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 3700, Art Unit 3762 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

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DEC 0 2 2008

OFFICE OF PETITIONS

In re Application of :
Mark T. MARSHALL et al. :
Application No. 10/759,997 :
Filed: January 16, 2004 :
Attorney Docket No. P-20093.00 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 11, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May, 12, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

Since the amendment submitted April 11, 2008 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 Advisory Action of August 11, 2008.

Since the reply also did not provide a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b), the petition is considered to not contain a proper reply.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
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Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
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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 Karin Reichle at (571) 272-6051.

David Bucci
Petitions Examiner
Office of Petitions

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CAROL F. BARRY
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPLOIS MN 55432-9924

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of :
Mark T. Marshall et al :
Application No.10/759,997 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. P-20093.00 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 11, 2008 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 May 12, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

Since the amendment submitted January 2, 2009 does not prima facie place the application in a 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 Advisory action accompanying this paper.

Since the reply also did not provide a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b), the renewed petition is considered to not contain a proper reply.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
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By hand:
U. S. Patent and Trademark Office
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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 Newton Edwards at (571) 272-6052 or in his absence to the undersigned at (571) 272-7099.

David Bucci
Petitons Examiner
Office of Petitions

Encl. Advisory action Before the Filing of an Appeal brief form PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/759,997	Applicant(s) MARSHALL ET AL.	
	Examiner Alyssa M. Alter	Art Unit 3762	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1,3-6 and 8-34*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/George R Evanisko/
Primary Examiner, Art Unit 3762

Continuation of 3. NOTE: The proposed amendments to the pending claims would require further search and considerations. Therefore, these limitations do not put the application in condition for allowance.

Continuation of 11. does NOT place the application in condition for allowance because: The proposed amendments to the pending claims would require further search and considerations. Therefore, these limitations do not put the application in condition for allowance. .

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CAROL BARRY
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

COPY MAILED
MAR 09 2010

In re Application of	:	
Mark T. MARSHALL et al.	:	
Application No. 10/759,997	:	ON PETITION
Filed: January 16, 2004	:	
Attorney Docket No. P0020093.00	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 18, 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 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 February 11, 2008, which set a shortened statutory period for reply of three (3) months. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on May 12, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (3).

Since the reply also did not provide a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, the renewed petition is considered to not contain a proper statement of unintentional delay. Further correspondence with respect to this matter should be addressed as follows:

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Commissioner for Patents
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Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
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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 Miranda Le at (571) 272-4112 or in her absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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MEDTRONIC, INC
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

COPY MAILED
MAR 12 2010

In re Application of :
Mark Marshall et al. :
Application No. 10/759,997 :
Filed: January 16, 2004 :
Attorney Docket No. P0020093.00 :

DECISION ON PETITION

This is a decision on a renewed petition under 37 CFR 1.137(b), filed June 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed February 11, 2008, which set a shortened statutory period for reply of three (3) months. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment *that prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 12, 2008.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that (1) a Request for Continued Examination and fee, the reply in the form of an Amendment (submitted on June 18, 2009); (2) the petition fee of $1640; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of February 11, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tammara Peyton at (571) 272-6052 or in his absence to the undersigned at (571) 272-3217.

Application No. 10/759,997

The application matter is being referred to Technology Center 3700, Art Unit 3762 for further processing.

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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/28/2010

Applicant	: Joseph J. Kubler	: DECISION ON REQUEST FOR
Patent Number	: 7633934	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/760,057	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1258** 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

MORGAN, LEWIS & BOCKIUS, LLP
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
SUITE 700
PALO ALTO CA 94304

COPY MAILED

JUN 16 2008

In re Application of	:	
Geetha Shankar, et al.	:	
Application No. 10/760,061	:	DECISION ON PETITION
Filed: June 16, 2004	:	TO WITHDRAW
Attorney Docket No. 61030-0031-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 May 16, 2007 and November 16, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "applicants are not interest in continuing prosecution of application", does not meet any of the conditions set forth in 37 CFR 10.40.

Additionally the request cannot be approved because the petitioner was not appointed by customer number 43850.

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).

The Associate Power of Attorney filed with the petition on October 17, 2005, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b) was eliminated). *See* MPEP § 402.02 and Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (June 22, 2004). Although the paper has been placed in the file, the names of the patent practitioners listed on the Associate Power of Attorney have not been made of record. However, as requested, and since the Associate Power of Attorney was signed by an attorney of record, the correspondence address has been changed to the address noted in the document.

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: CHARLES GLUCHOWSKI, PHD
PRESIDENT
LIFE/SCIENCE INNOVATIONS LLC
154 COOLSPRING CT
DANVILLE, CA 94506

PETITION MOOT

APPLICATION ALLOWED.

HIEN H. PHAN
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 2800

I hereby certify that this is being deposited with the United States Postal Service as first class mail to Addressee service under 37 CFR 1.10 addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313 on 2-7-04

By Mario Rabinowitz
Mario Rabinowitz

In The United States Patent And Trademark Office

February 3, 2003

In re Pro Se application of Mario Rabinowitz
Serial No. : 10/760,068
Filed: 1-16-04.
Title: Advanced Micro-Optics Solar Energy Collection System
Examiner: Unknown as of this date.
Art. Unit: Unknown as of this date, but **probably 2872.**
No fee required as this invention will contribute to Energy Conservation.

PETITION TO MAKE SPECIAL

Pursuant to U.S. Patent Law, Manual of Patent Examining Procedure § 708.02, *37 CFR 1.102. Advancement of examination*, the applicant, U.S. citizen:

Mario Rabinowitz

hereby petititions the U.S. Commissioner of Patents to make special his patent application for a

Advanced Micro-Optics Solar Energy Collection System

The basis of this petition is that my invention will materially contribute to and promote the development of energy conservation resources. In the process of advancing the conservation of energy, my invention may also be expected to enhance the quality of the environment. My invention will make solar energy practical in allowing the solar energy conversion system to be low in capital cost and inexpensive to install. In its capacity as a power producer, it can be utilized with far greater safety, simplicity, economy, and efficiency in the conversion of solar energy. It will thus also benefit the environment in obviating the necessity to use other polluting energy sources.

I pray that the The United States Patent And Trademark Office will accord "special" status to my patent application for the reasons given above.

Respectfully submitted,
Mario Rabinowitz
Mario Rabinowitz
715 Lakemead Way
Redwood City, CA 94062-3922

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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MOETTELI & ASSOCIES SARL
C.P. 486 , 6 AVENUE DE FRONTENEX
CH - 1211, GENEVA 12 CH
SWITZERLAND

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APR 21 2005

OFFICE OF PETITIONS

In re Application of :
Fortin, et al. :
Application No. 10/760,075 : ON PETITION
Filed: January 18, 2004 :
Attorney Docket No. PUS-H002-001 :

This is a decision on the petition under 37 CFR 1.53 filed November 1, 2004, requesting that the above-identified application be accorded a filing date of January 18, 2004, including six (6) sheets of drawings as part of the original disclosure of the application.

The application was submitted on January 18, 2004. However, on September 17, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

In response, on November 1, 2004, six (6) sheets of drawings and the instant petition were submitted. Petitioner argues:

> "1. The US was indicated as a designated state in Petitioner's Request filing for International Application...
>
> 2. As a designated state, the WIPO International Bureau communicated a copy of Petitioner's International Application, including the subject drawings, to the Office...
>
> 3. A copy of the subject drawings was on deposit with the Office upon the transmittal of Petitioner's 35 USC 371 US national stage Transmittal Letter to the Office on 18 January 2004.

> 4. Therefore, the refusal to grant a filing date on the ground that the "application was deposited without drawings" is a mistake in the Office, and the application is entitled to a filing date."

The arguments have been considered, but are not persuasive. The Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the official file reveals zero (0) sheets of drawings were filed on January 18, 2004. Drawings were not filed on January 18, 2004, since no such drawings are present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503.

A copy of a postcard receipt that would indicate receipt of six (6) sheets of drawings on January 18, 2004 has not been submitted. If petitioner has a postcard receipt date stamped by the Office that indicates receipt six (6) sheets of drawings on January 18, 2004, then the postcard receipt or a copy thereof should have been supplied.

However, a review of the priority document submitted on even date, January 18, 2004, reveals that it includes six (6) sheets of drawings which are identical to the six (6) sheets which were intended to be filed on January 18, 2004, and which appear to correspond to the drawings and Figures described in the specification. Accordingly, on petition, the six (6) sheets of drawings in the priority document will be construed as the drawings for this application for filing date purposes.

In view of the above, the petition is granted.

The application will be processed and examined using the copy of the six (6) sheets of drawings supplied on November 1, 2004.

Please note, the petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO and the instant petition was required in order to accord the requested filing date.

This application will be returned to OIPE for further processing with a filing date of January 18, 2004, using the six (6) sheets of drawings, supplied on November 1, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MR. FREDERIC FORTIN
C/O HEXABIO S.A.
36, ALLEE DES PASSERINES
PESSAC F-336-00 FR FRANCE

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of :
Fortin et al. : DECISION ON PETITION
Application Number: 10/760075 :
Filing Date: 01/18/2004 :
Attorney Docket Number: PUS-H002-001.2 :

This is a decision on the petition filed on October 23, 2007, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is **DISMISSED**.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d)).

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. **Extensions of time under 37 CFR 1.136(a) are permitted.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on October 18, 2006, for failure to timely submit a reply to the non-final Office action mailed on July 17, 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 mailed on February 21, 2007.

The statement of unintentional delay in the petition does not track the language of 37 CFR 1.137(b)(3), which requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. As such, it is recommended that petitioner use the enclosed form when filing a renewed petition.

Petitioner should file a renewed petition, utilizing the attached petition form.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three (3)-month extension request filed on October 23, 2007, was submitted more than three (3) months after the end of the period for reply to the non-final Office action mailed on July 17, 2006, and therefore is unnecessary. The extension of time fee paid on October 23, 2007, will be credited to counsel's deposit account as authorized.

The revocation of power of attorney and new power of attorney filed on October 23, 2007, cannot be accepted because it is not properly signed. The power of attorney appears to have been signed on behalf of an assignee, but the assignee has not complied with 37 CFR 3.71, which states, in pertinent part:

> (a) Patents – conducting of prosecution. One or more assignees as defined in paragraph (b) of this section may, after becoming of record pursuant to paragraph (c) of this section, conduct prosecution of a national patent application or a reexamination proceeding to the

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

> exclusion of either the inventive entity, or the assignee(s) previously entitled to conduct prosecution.
>
> (b) Patents — assignee(s) who can prosecute. The assignee(s) who may conduct either the prosecution of a national application for patent or a reexamination proceeding are:
>
> (1) A single assignee. An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or
>
> ….
>
> (c) Patents — Becoming of record. An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

Petitioners should utilizes the enclosed power of attorney and Statement Under 37 CFR 3.73(b) form to complete a new power of attorney and change of correspondence address.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ATTCH: Form PTO/SB/64
Form PTO/SB/82
Form PTO/SB/96

cc:

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

PTO/SB/64 (12-07)
Approved for use through 12/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/82 (01-06)
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REVOCATION OF POWER OF ATTORNEY WITH NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☐ I hereby appoint the practitioners associated with the Customer Number: ☐

☐ Please change the correspondence address for the above-identified application to:

☐ The address associated with Customer Number: ☐

OR

☐ Firm *or* Individual Name			
Address			
City		State	Zip
Country			
Telephone		Email	

I am the:

☐ Applicant/Inventor.

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Signature			
Name			
Date		Telephone	

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/96 (12-07)
Approved for use through 12/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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FEB 20 2008

OFFICE OF PETITIONS

In re Application of :
Fortin et al. : DECISION ON PETITION
Application Number: 10/760075 :
Filing Date: 01/18/2004 :
Attorney Docket Number: :
09955.0047-01000 :

This is a decision on the renewed petition filed on January 22, 2008, 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 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(d)).

This application became abandoned on October 18, 2006, for failure to timely submit a reply to the non-final Office action mailed on July 17, 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 mailed on February 21, 2007. On October 23, 2007, a petition to revive the application was filed. On December 21, 2007, the petition was dismissed. On January 22, 2008,[2] the subject renewed petition was filed.

Receipt of the amendment filed with the present renewed petition is acknowledged.

Receipt of the power of attorney filed with the present petition is acknowledged. All correspondence will be mailed to the address indicated therein.

The application is being referred to Technology Center Art Unit 3733 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] As January 21, 2008, fell on a federal holiday, the petition filed on January 22, 2008, was timely filed within two (2) months of the decision mailed on December 21, 2007.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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AUG 9 2005

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

In re Application of :
Hubert Koster, Ph.D.
Serial No.: 10/760,085 : PETITION TO MAKE SPECIAL
Filed: January 16, 2004 :
Attorney Docket No.: 17111-009001/2309 :

This is in response to applicant's petition filed on July 28, 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 William Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 572-272-0519 or by facsimile transmission to the general Office facsimile number.

William Dixon, Jr.
Special Program Examiner
Technology Center 1600

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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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NOV 29 2005

OFFICE OF PETITIONS

In re Application of
Koster et al.
Application No. 10/760,085
Filed: January 16, 2004
For: CAPTURE COMPOUNDS, COLLECTIONS THEREOF AND METHODS FOR ANALYZING THE PROTEOME AND COMPLEX COMPOSITIONS
Attorney Docket No: 8019
Pub. No.: US 2005/0042771 A1
Pub. Date: February 24, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221 (b), received on April 15, 2005, for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for material 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 instant request also includes mistakes that are not material errors by the Office, which will not be corrected by a corrected publication by the Office.

The errors mentioned on pages 32, 33, 34 and 35, wherein applicant requests that the "wedged" bond shown in the publication be replaced with a "dashed" bond will not be corrected as requested by applicant as the structures in the application papers show a "wedged" bond.

Applicant is reminded of her duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

[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).

Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

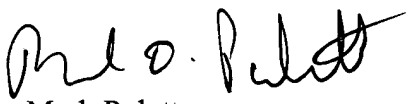
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the 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

Commissioner for Patents
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DEC 26 2007

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

In re Application of :
Thomas L. Cantor et al :
Serial No.: 10/760,091 : PETITION DECISION
Filed: January 16, 2004 :
Attorney Docket No.: 532212000624 :

This is in response to the petition under 37 CFR 1.59(b), filed December 14, 2007, to expunge a Proprietary Information Disclosure Statement from the above identified application.

Petitioner requests that documents submitted with the petition as a Proprietary Information Disclosure Statement (PIDS) be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The information submitted as proprietary material was submitted in accordance with M.P.E.P. 724. This application is currently under Final Office action. The material has not yet been considered by the examiner, but will be prior to the next Office action. Upon determination of patentability as evidenced by a Notice of Allowability or abandonment of the application the material will be returned upon submission of a renewed petition. No additional petition fee will be due for the renewed petition.

The petition is **DISMISSED** with prejudice to submission of a renewed petition at an appropriate time.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number.

John LeGuyader
Director, Technology Center 1600

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MAY 0 8 2009

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

In re Application of: :
Cantor et al. :
Serial No.: 10/760,091 : PETITION DECISION
Filed: January 16, 2004 :
Attorney Docket No.: **532212000624**

This is in response to the petition under 37 CFR § 1.59(b), filed April 24, 2009, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that Supplemental Information Disclosure Statement containing therein 33 documents submitted to the Patent Office on April 24, 2009, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,091	01/16/2004	Thomas L. Cantor	532212000624	2110

25225 7590 12/02/2009

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

EXAMINER	
CHEU, CHANGHWA J	

ART UNIT	PAPER NUMBER
1641	

MAIL DATE	DELIVERY MODE
12/02/2009	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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SUITE 100
SAN DIEGO CA 92130-2040

DEC 0 2 2009

In re Application of:
Cantor et al.
Serial No.: 10/760,091
Filed: January 16, 2004
Attorney Docket No.: **532212000624**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed November 19, 2009, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that Supplemental Information Disclosure Statement submitted to the Patent Office on November 19, 2009, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,091	01/16/2004	Thomas L. Cantor	532212000624	2110

25225 7590 07/02/2010
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12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

EXAMINER	
CHEU, CHANGHWA J	
ART UNIT	PAPER NUMBER
1641	

MAIL DATE	DELIVERY MODE
07/02/2010	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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SUITE 100
SAN DIEGO CA 92130-2040

JUL - 1 2010

In re Application of:
Cantor et al.
Serial No.: 10/760,091
Filed: January 16, 2004
Attorney Docket No.: **532212000624**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed June 22, 2010, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that Supplemental Information Disclosure Statement having four documents therein submitted to the Patent Office on June 22, 2010, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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James J. Ralabate
5792 Main Street
Williamsville NY 14221

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OFFICE OF PETITIONS

In re Application of :
JENKINS :
Application No. 10/760,095 : DECISION ON PETITION
Filed: January 16, 2004 : TO WITHDRAW
Attorney Docket No. (None) : 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 16, 2005 and January 30, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, the firm or James J. Ralabate no longer represent Xybernaut, do not meet any the conditions set forth in 37 CFR 10.40. See MPEP 402.06.

Additionally, the power of attorney submitted January 16, 2004 appointed James J. Ralabate and Christopher M. Tucker and did not appoint practitioners associated with Customer Number 24321. Moreover while Christopher M. Tucker is associated with Customer Number 24321,

neither requests clearly identifies whether James J. Ralabate or both James J. Ralabate and Christopher M. Tucker should be included in the withdrawal.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office Action mailed January 26, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: XYBERNAUT CORPORATION
5175 PARKSTONE DRIVE
SUITE 130
CHANTILLY, VA 20151

cc: XYBERNAUT CORPORATION
SUITE 550, HYATT PLAZA
12701 FAIR LAKES CIRCLE
FAIRFAX, VA 22033

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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KNOBBE MARTENS
OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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SEP 30 2009
OFFICE OF PETITIONS

In re Patent No. 6.966,825 :
Issue Date: 22 November, 2005 :
Application No. 10/760,101 : DECISION
Filed: 15 January, 2004 :
Attorney Docket No. JEEK1.001AUS

This is a decision on the petition filed on 2 June, 2009, requesting issuance of duplicate Letters Patent for the above-identified patent/application, and considered pursuant to 37 C.F.R. §1.182.

NOTE: *Petitioner is reminded that the Application Serial Number and the Patent Number must be placed on all papers regarding this patent.*

The petition is **GRANTED.**

BACKGROUND

Petitioner Michael H. Trenholm (Reg. No 37,743) has made demand upon the Office to issue duplicate Letters Patent in the instant matter.

Petitioner has declared that the letters patent apparently were lost.

Petitioner has demonstrated that the petition fee has been paid as required for the petition under 37 C.F.R. §1.182.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Patent No. 6.966,825
Application No. 10/760,101

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

The Publishing Division is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to Publishing Division for issuance of duplicate Letters Patent.

The file is being released to the IFW Repository.

Any questions regarding the issuance of the duplicate Letters Patent should be directed to Ms. Niomi Farmer, Office of Data Management, Office: 703-308-9250x119, Fax: 571-270-9753.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc: Ms. Niomi Farmer, ST/8C23 FAX: (571) 270-9753

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[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DARBY & DARBY
P.O. BOX 5257
NEW YORK NY 10150-5257

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OFFICE OF PETITIONS

In re Application of :
Yossi Corem et al :
Application No. 10/760,107 :
Filed: January 16, 2004 :
Attorney Docket No. 20002/0200803-USO :

ON PETITION

This is a decision on the petition, filed December 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 December 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2874 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

MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of
Jack Pryor
Application No. 11/760,111
Filed: June 8, 2007
Attorney Docket No. P1524DIV1

DECISION ON PETITION

This is a decision on the petition filed August 5, 2009, which is being treated as a petition under 1.181 (no fee) requesting withdrawal of the holding of abandonment or in the alternative a petition under the unavoidable provisions of 37 CFR 1.137(a), to revive the above-identified application.

Both petitions are **DISMISSED.**

The application became abandoned for failure s to timely pay the issue and publication fees on or before June 2, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 2, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 3, 2009.

With respect to the 1.181:

A review to the record shows that the petitioner's Interview Summary was recorded and mailed March 18, 2009 along with a new Notice of Allowability; however there is no written indication that the Examiner agreed to withdraw the application from Issuance and the period for response would be restarted.

Petitioner is reminded that all business should be transacted in writing. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt. 37 CFR 1.2.

With respect to the 1.137(a):

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for

the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620 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).

Any further petition to revive must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration

request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Office of Data Management at their hotline 571-272-4200.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

WARD & OLIVO
Suite 300
382 Springfield Avenue
Summit, NJ 07901

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NOV 10 2004

OFFICE OF PETITIONS

In re Application of	:
Chen, et al.	: DECISION REFUSING STATUS
Application No. 10/760,119	: UNDER 37 CFR 1.47(a)
Filed: January 17, 2004	:
Atty. Dkt. No.: 130-040	:
For: COMPRESSION-MOLDED	:
VEGETABLE WAX-BASED CANDLE	:

This decision is in response to the petition under 37 CFR 1.47(a), filed October 26, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed January 17, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed April 22, 2004 requiring, *inter alia*, an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy items (1) and (2) set forth above.

As to item (1), petitioners allege joint inventor Fabian T. Destefano cannot be reached and that joint inventors Mary Grace P. David and John A. Ferguson have refused to execute the declaration after having been presented with the application papers.

Petitioners have failed to present any evidence to establish that inventor Fabian T. Destefano cannot be reached or located. Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration).

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. 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. At the very least, a search of the internet, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Petitioners have failed to present any evidence that joint inventors Mary Grace P. David and John A. Ferguson refused to execute the declaration after having been presented with a complete copy of the application papers (specification, including claims, drawings, and oath or declaration).

Before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to each non-signing inventor. Petitioners have failed to establish that the non-signing inventors received a copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or

declaration. Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of letters sent to the inventors indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventors receive the application papers and requests to execute the oat or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

As to item (2), petitioners have failed to present a declaration in accordance with 37 CFR 1.63. The declaration presented wit the instant petition is unacceptable as it contains alterations that have not been initialed. *See*, 37 CFR 1.52(c). Any renewed petition must be accompanied by a proper oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
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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Suite 300
382 Springfield Avenue
Summit, NJ 07901

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OFFICE OF PETITIONS

In re Application of	:	
Chen, et al.	:	DECISION NOTING JOINDER
Application No. 10/760,119	:	OF INVENTOR AND PETITION
Filed: January 17, 2004	:	UNDER 37 CFR 1.47(a) MOOT
Docket No.: 130-040	:	

This is a decision on the renewed petition under 37 CFR 1.47(a), filed May 10, 2005.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application 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) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

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AUG 07 2008

In re Application of :
YURY KALNITSKY :
Application No. 10/760,137 : DECISION ON PETITION
Filed: 01/16/2004 :
Attorney Docket No. 336001-2040 :

This is a decision on the "REQUEST TO WITHDRAW HOLDING OF ABANDONMENT UNDER MPEP ¶ 711.03(c) 1A BASED ON FAILURE TO RECEIVE NOTICE OF ALLOWANCE," filed April 16, 2008, and supplemented on June 20, 2008, to withdraw the holding of abandonment in the above-identified application.

On December 13, 2007, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. In the absence of a timely filed response, the application became abandoned on March 14, 2008. On April 7, 2008, the Office mailed a Notice of Abandonment.

Petitioners request that the Office withdraw the holding of abandonment because they did not receive the Notice Allowance and Fee(s) Due mailed on December 13, 2007. Petitioners assert that they submitted a request to change the customer number for the above-identified application (including association of a new correspondence address) on August 28, 2007, which was received by the USPTO, but was not entered. Petitioners request that the non-received Notice of Allowance be re-mailed to the correct correspondence address: Frommer Lawrence & Haug LLP, 745 Fifth Avenue, New York, NY 10151. Petitioners state that to ensure that the USPTO associates the correct correspondence address with the above-identified application they have filed a new power of attorney and change of correspondence address associate with Customer No. 20999.

After reviewing the USPTO's records, and consulting with the Electronic Business Center, it appears that the USPTO received a cover letter and a CD containing an Excel spreadsheet of patents and patent applications to be changed from Customer No. 29858 and associated with Customer No. 20999, signed by David B. Ritchie, Reg. 31562.

Pursuant to 37 CFR 1.33(a):

> (2) Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).
>
> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
>
> (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
>
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The record does not show that David B. Ritchie was a patent practitioner of record appointed in compliance with 37 CFR 1.32(b) (e.g. power of attorney) in this application on August 28, 2007. Thus, Mr. Ritchie could not change the correspondence address of record in above-identified application. For this reason, the USPTO/Electronic Business Center did not change the correspondence address to the address associated with Customer No. 20999. Accordingly, the Notice of Allowance and Fee(s) Due was mail to the proper correspondence address of record as it existed on December 13, 2007.

In view of the above, the petition to withdraw the holding of abandonment is **dismissed**.

Copies of the Notice of Allowance and Fee(s) Due and the Notice of Allowability accompany this decision for petitioners' convenience. The request for revocation and appointment of power of attorney and change of correspondence address associated with Customer No. 20999 has been entered.

Any request for reconsideration of this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extensions of time are permitted under 37 CFR 1.136(a). The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

In the alternative, petitioners may wish to seek relief by filing a petition under 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or Notice, unless previously filed; (2) the petition fee, and; (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Copies of Notice of Allowance and Fee(s) Due and Notice of Allowability

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

29858 7590 12/13/2007

THELEN REID BROWN RAYSMAN & STEINER LLP
PO BOX 1510
NEW YORK, NY 10150-1510

EXAMINER	
PATEL, CHIRAG R	
ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 12/13/2007

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,137	01/16/2004	Yury Kalnitsky	3524/199	7187

TITLE OF INVENTION: NETWORK ARCHITECTURE FOR DATA TRANSMISSION

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1440	$300	$0	$1740	03/13/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (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)

29858 7590 12/13/2007

THELEN REID BROWN RAYSMAN & STEINER LLP
PO BOX 1510
NEW YORK, NY 10150-1510

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.
10/760,137	01/16/2004	Yury Kalnitsky	3524/199	7187

TITLE OF INVENTION: NETWORK ARCHITECTURE FOR DATA TRANSMISSION

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1440	$300	$0	$1740	03/13/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
PATEL, CHIRAG R	2141	709-219000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are 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)**
☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,137	01/16/2004	Yury Kalnitsky	3524/199	7187

29858 7590 12/13/2007

THELEN REID BROWN RAYSMAN & STEINER LLP
PO BOX 1510
NEW YORK, NY 10150-1510

EXAMINER	
PATEL, CHIRAG R	
ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 12/13/2007

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

Notice of Allowability	Application No.	Applicant(s)	
	10/760,137	KALNITSKY, YURY	
	Examiner	Art Unit	
	Chirag R. Patel	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *October 12, 2007*.

2. ☒ The allowed claim(s) is/are *1,2,5-9,11-20 and 23-30*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date ____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

JASON CARDONE
SUPERVISORY PATENT EXAMINER

Allowable Subject Matter

Claims 1-2, 5-9, 11-20, and 23-30 are allowed.

The following is an examiner's statement of reasons for allowance: As per claim 1, Mchale was relied to disclose that the communication server can soft-terminate or hard-terminate the session after a period of inactivity for the data communication session. Mchale infers that if the communication server were receiving a content transmission from the communication network, then the communication server would not terminate the session. A thorough review of the prior art fails to discloses the specific conditions of "said client-side computer being operative in terminating the content transmission being received by the client-side computer from the at least one content source when the client-side computer is not distributing the content to any of the requesting user terminals." Independent claims 12, 20, 23, 27, 29 and 30 recite similar limitations. Claims 2, 5-9, 11, 13-19, 24-26, and 28 are allowed due to its dependency on claims 1, 12, 20, 23, and 27, respectively. Examiner notes that claims 3-4, 10, and 21-22 are cancelled by the applicants.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag R Patel whose telephone number is (571)272-

7966. The examiner can normally be reached on Monday to Friday from 7:30AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pairdirect.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Chirag Patel C.P.
Patent Examiner
AU 2141

JASON CARDONE
SUPERVISORY PATENT EXAMINER

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

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NOV 2 6 2008

In re Application of :
YURY KALNITSKY :
Application No. 10/760,137 : DECISION ON PETITION
Filed: 01/16/2004 :
Attorney Docket No. 336001-2040 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF DECISION ON REQUEST TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE NOTICE OF ALLOWANCE ," filed September 25, 2008, to withdraw the holding of abandonment in the above-identified application.

On December 13, 2007, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. In the absence of a timely filed response, the application became abandoned on March 14, 2008. On April 7, 2008, the Office mailed a Notice of Abandonment.

Petitioners request that the USPTO withdraw the holding of abandonment because they did not receive the Notice Allowance and Fee(s) Due mailed on December 13, 2007. Petitioners assert that they submitted a CD and a Customer Number Upload Spreadsheet signed by patent practitioner Frank DeRosa on August 13, 2007, requesting a change of correspondence address in the above-identified application to Customer No. 20999. Petitioners aver that the USPTO improperly rejected petitioners' request of August 13, 2007, on the basis that Mr. DeRosa did not have power of attorney in the subject application. Petitioners assert that Mr. DeRosa had power of attorney in the application, and thus, the Customer Number Upload of August 13, 2007, should have been processed. Petitioner argue that the abandonment occurred because of the USPTO's failure to change the correspondence address and mail the Notice of Allowance and Fee(s) Due to the new correspondence address.

After reviewing the USPTO's records, and consulting with the Electronic Business Center, it appears that on August 13, 2007, the USPTO received a cover letter and a CD containing an Excel spreadsheet of patents and patent applications to be changed from Customer No. 29858 to Customer No. 20999, signed by Mr. DeRosa. Furthermore, the records indicate that Mr. DeRosa was associated with Customer No. 20999 on August 1, 2007, and therefore, had the authority to request the change. Thus, it appears that the USPTO/Electronic Business Center improperly rejected the August 13, 2007 request

to change the correspondence address in the subject application to the address associated with Customer No. 20999. Consequently, the Notice of Allowance and Fee(s) Due was mail to an incorrect correspondence address.

In view of the above, the petition is **granted.** The holding of abandonment is hereby withdrawn and the application is being returned to pending status.

This application is being referred to the Technology Center technical support staff of Art Unit 2141 for re-mailing the Notice of Allowance and Fee(s) Due of December 13, 2007. The three-month statutory period for reply will run from the re-mailing date of the Notice.

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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KURT C. OLSEN
SANDIA LABS - MAIL STOP 9031
P O BOX 969
LIVERMORE CA 94551-0969

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JUL 25 2008

OFFICE OF PETITIONS

In re Application of :
Cummings et al. :
Application No. 10/760,139 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. SD-8481 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 3, 2008, which will be treated as a petition to withdraw of the holding of abandonment in the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely reply to the Notice of Allowance allegedly mailed November 19, 2007, which set a statutory period for reply of three (3) months. A reply was due on or before February 19, 2008. A Notice of Abandonment was mailed on March 26, 2008.

Petitioner asserts "that there is NO record in PAIR of a Notice of Allowance generated other than the 'Corrected' form sent to the Applicants" on November 30, 2007.

After a review of USPTO records, the Notice of Allowance listed as being mailed on November 19, 2007 in the USPTO database cannot be found. It appears that the Notice was never truly mailed out. Therefore, the due date as listed on the November 30, 2007 Notice of Allowance should have reflected a three-month period for reply. Accordingly, the issue and publication fees submitted on February 27, 2008 were timely.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status. The petition to revive under 37 CFR 1.137(b) is hereby dismissed as moot.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Accordingly, the $1540.00 petition fee will be credited to petitioner's deposit account as authorized.

This matter is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Tonny Yu	: DECISION ON REQUEST FOR
Patent Number	: 7590694	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/760,140	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1104** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AMIN, TUROCY & CALVIN, LLP
1900 EAST 9TH STREET, NATIONAL CITY CENTER
24TH FLOOR,
CLEVELAND, OH 44114

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AUG 31 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ming Yan et al. :
Application No. 10/760,145 :
Filed: January 16, 2004 :
Attorney Docket Number: LMP132US :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed April 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned June 23, 2004, for failure to timely reply to the Notice to File Missing Parts mailed on April 22, 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 prior to the abandonment. Accordingly, a Notice of Abandonment was mailed January 14, 2005.

Receipt of the oath or declaration in compliance with 37 CFR 1.63 as well as filing and late fees 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 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 record reveals that a four month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1590.00 extension of time fee submitted with the petition on April 17, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 50-1063.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Director's Office
Office of Patent Publication

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

In re Application of :
HETTRICK, DOUGLAS A. , et al
Application No. 10/760155 : **DECISION ON PETITION**
Filed: January 16, 2004 :
Attorney Docket No. **P0011316.00** :

This is a decision on the Petition to Withdraw Holding of Abandonment under 37 C.F.R 1.181(a), received in the United States Patent & Trademark Office (USPTO) on July 19, 2007.

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 February 12, 2007. The Notice of Abandonment, mailed on June 08, 2007 indicates, applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailed date of the Notice of Allowance (PTOL-85).

The Petition to Withdraw Holding of Abandonment under 37 C.F.R 1.181(a), states that the issue fee was paid on July 3, 2007 which is beyond the 3 month period of February 12, 2007. In light of that your issue fee was in fact due May 14, 2007 and this application will remain abandoned.

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. 163.

Nina Motley

Nina D. Motley
Quality Operations Assistant
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

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OFFICE OF PETITIONS

In re Application of :
Douglas A. Hettrick et al :
Application No. 10/760,155 : ON PETITION
Filed: January 16, 2004 :
Attorney Docket No. P0011316.00 :

This is a decision on the petition filed September 21, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed February 12, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 13, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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RALEIGH, NC 27606

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OFFICE OF PETITIONS

In re Application of :
Marc Duane et al :
Application No. 10/760,163 : DECISION GRANTING PETITION
Filed: January 20, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. DCC-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 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 19, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 20, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply to the non-final Office action of October 19, 2004, (2) the $750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 19, 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3744 for appropriate action in the normal course of business on the reply received May 9, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAY 27 2004

In re Application of	:	
Eli S. Pine et al.	:	
Serial No. 10/760,165	:	DECISION ON PETITION
Filed: January 20, 2004	:	TO MAKE SPECIAL
For: EXPANDABLE KNIFE HOLDER	:	

Applicant's petition, filed January 20, 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

Gayle Rosenberg
c/o GSL Enterprises
Harmon Cove Towers, Suite #2
Secaucus, NJ 07094

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 18, 2008

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction for Appl. No. 10/760178 patent no7071486

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

2814

Art Unit

0307-07 10/760178 Copy

HARNESS DICKEY

G. Gregory Schivley
schivley@hdp.com

OIPE IAP1
MAR 06 2007
PATENT & TRADEMARK OFFICE

March 6, 2007

Certificate
MAR 09 2007
of Correction

Attention: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Re: Atty Docket No. 9319G-000649
U.S. Patent No. 7,071,486 / Issued: Jul. 4, 2006
Title: "Emitter, Manufacturing Method and Manufacturing Apparatus Thereof, Electro-Optical Apparatus and Electronic Apparatus"
Inventor: Hirofumi Sakai

Sir:

We have reviewed the above-indicated patent and have found several errors which appear to require a Certificate of Correction.

Enclosed herewith is an original and a copy of the Patent and Trademark Office Certificate of Correction form which we request be approved for the above-indicated patent.

Please charge $100.00 to Epson R&D Deposit Account No. 50-3213 and any further fees which may be due. A duplicate copy of this sheet is enclosed.

03/08/2007 RHEBRAHT 00000079 503213 7071486
01 FC:1811 100.00 DA

Respectfully submitted,

By: _____
G. Gregory Schivley
Reg. No. 27,382
HARNESS, DICKEY & PIERCE, P.L.C.
Attorneys for Patentee

EV 522 877 408 US

EV 522 877 408 US

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as express mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on Mar 6, 2007.

By _____

cc: [OSP-15431]

MAR - 9 2007

PTO/SB/44 (04-04)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

1/2

PATENT NO : 7,071,486

APPLICATION NO: 10/760,178

DATED : Jul. 4, 2006

INVENTOR(S) : Hirofumi Sakai

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Title Page, References cited, Other Publications: Add -- Communication from Taiwanese Patent Office regarding counterpart application (and English translation thereof) --

Col. 1, line 31: "Light" should be -- (light --.

Col. 4, line 67: "font" should be -- front --.

Col. 5, line 8: "40," should be -- 40. --.

Col. 5, line 25: "0" should be -- θ --

Col. 5, line 35: "7" should be -- γ --

Col. 5, line 37: "a" should be - α --

Col. 6, line 32: delete "et".

MAILING ADDRESS OF SENDER: HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills MI 48303

PATENT NO. 7,071,466

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.

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

2/2

PATENT NO : 7,071,486

APPLICATION NO: 10/760,178

DATED : Jul. 4, 2006

INVENTOR(S) : Hirofumi Sakai

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Col. 9, line 3: "polyirmide" should be -- polyimide --.

Col. 9, line 52: "Tr" should be -- Tm --.

Col. 9, line 62: "layer 10" should be -- layer 110 --.

Col. 10, line 66: "step)," should be -- step). --.

Col. 11, line 11: "(DMI" should be -- (DMI) --.

Col. 11, line 25: "E, B" should be -- R, G --.

Col. 12, lines 44-45: "dihydrobenzofaran" should be -- dihyrobenzofuran --.

Col. 16, line 28: "NH^+" should be --NH_4^+--.

Col. 16, line 28: "Ba^{2+}" should be -- "Ba^{2+}) --.

Col. 18, line 37 (claim 15): "claim 4" should be -- claim 3 --.

MAILING ADDRESS OF SENDER: HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

PATENT NO. 7,071,486

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

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PATENT NO : 7,071,486

APPLICATION NO: 10/760,178

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P.O. Box 828
Bloomfield Hills MI 48303

PATENT NO. 7,071,486.

No. of additional copies

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PTO/SB/44 (04-04)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

2/2

PATENT NO : 7,071,486

APPLICATION NO: 10/760,178

DATED : Jul. 4, 2006

INVENTOR(S) : Hirofumi Sakai

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

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Col. 9, line 52: "Tr" should be -- Tm --.

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Col. 16, line 28: "Ba^{2+}" should be -- "Ba^{2+}) --.

Col. 18, line 37 (claim 15): "claim 4" should be -- claim 3 --.

MAILING ADDRESS OF SENDER: HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

PATENT NO. 7,071,486

No. of additional copies

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JAN 2 2 2008

OFFICE OF PETITIONS

In re Patent No. 7,080,894	:	
Issue Date: July 25, 2006	:	
Application No. 10/760,188	:	ON PETITION
Filed: January 21, 2004	:	
Patentee(s): Kia Silverbrook, et. al.	:	

This is a decision on the request under 37 CFR 3.81[1] filed on October 29, 2007, to add the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

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OFFICE OF PETITIONS

In re Application of :
SILVERBROOK :
Application No. 10/760,198 :
Filed: January 21, 2004 :
Attorney Docket No. RRA05US :

DECISION
ON PETITION

This is a decision on the petition under 1.137(a) filed June 7, 2006, to revive the above-identified application, which is being treated as a request under 37 CFR 1.181 (no fee) for withdrawal of the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is vacated, and this application restored to pending status.

The application purportedly became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 4, 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. A Notice of Abandonment was mailed April 14, 2006.

Petitioner states he did not receive the non-final Office action mailed August 4, 2005. The record supports this statement. The record includes a "Mail returned to USPTO as undelivered" entry of August 18, 2005 having an envelope stamped "SHORT PAID." This entry demonstrates the postage on the Office action was deficient, and the letter was returned to the Office. Based on the record and petitioner's statements, there is sufficient evidence to demonstrate to the satisfaction of the Director that the applicant did not receive the Office action mailed August 4, 2005 and to vacate the holding of abandonment.

The petition fee of $500 and the extension of time fee are unnecessary. 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). Petitioner may request a refund of these fees by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 2861 for consideration of the response to the non-final Office Action accompanying the petition on June 7, 2006.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

In re Application of :
Silverbrook : DECISION ON PETITION
Application No. 10/760,203 :
Filed: January 21, 2004 :
Dkt. No.: RRA18US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned November 6, 2005 for failure to timely submit a proper reply to the final Office action mailed August 5, 2005. Notice of Abandonment was mailed May 8, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

In re Application of
Kia Silverbrook
Application No. 10/760,204
Filed: January 21, 2004
Attorney Docket No. RRA19US

ON PETITION

This is a decision on the "Petition To Withdraw Abandonment", filed May 1, 2007 under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

A Final Office Action was mailed August 14, 2006 which set a three month period for response. A response filed September 17, 2006 did not place the application in condition for allowance and thus, on October 2, 2006, an Advisory Action was mailed. The period for reply continued to run from the mailing date of the August 14, 2006 Final Office Action. No response having been filed, the instant application became abandoned November 15, 2006 and a Notice of Abandonment was mailed on April 23, 2007.

Petitioners argue that an RCE, in response to the Final Office Action and the Advisory Action was filed October 20, 2006.

A search of the application file and the USPTO records reveals that in fact, the RCE and request to treat the previously filed amendment, with the proper fees, was timely filed on October 20, 2006 and is of record.

Accordingly, the response was timely and the Notice of Abandonment mailed April 23, 2007 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2853 for processing the RCE filed October 20, 2006.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Silverbrook et al.	:	
Application No. 10/760,214	:	DECISION ON PETITION
Filed: January 21, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. WAL15US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 19, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional

parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed March 19, 2007 fails to state the relationships of all the applications listed to the instant application.

If petitioner merely wishes the applications listed as co-pending applications, a petition under 37 CFR 1.78 is not necessary and a refund of the petition fee may be requested. 37 CFR 1.78 is only necessary when claiming the benefit of the prior applications.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment[1] stating the relationship of the prior-filed application to the instant application is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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MAR 2 0 2009

OFFICE OF PETITIONS

In re Application of	:
Silverbrook et al.	:
Application No. 10/760,214	: DECISION GRANTING PETITION
Filed: January 21, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. WAL15US	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 11, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/112,767, filed July 10, 1998, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 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 nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 2861 for appropriate action on the amendment filed March 11, 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Liana Walsh
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 NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/760,214	01/21/2004	2861	1292	WAL15US	49	1

CONFIRMATION NO. 1372

CORRECTED FILING RECEIPT

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

Date Mailed: 03/19/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kia Silverbrook, Balmain, AUSTRALIA;
Tobin Allen King, Balmain, AUSTRALIA;
Janette Faye Lee, Balmain, AUSTRALIA;

Assignment For Published Patent Application

Silverbrook Research Pty Ltd

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 10/160,273 06/04/2002 PAT 6,746,105
which is a CON of 09/112,767 07/10/1998 PAT 6,416,167

Foreign Applications

AUSTRALIA PP2592 03/25/1998
AUSTRALIA PO7991 07/15/1997

If Required, Foreign Filing License Granted: 04/23/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/760,214**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Printhead assembly for a wallpaper printer

Preliminary Class

347

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

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DEC 15 2006

OFFICE OF PETITIONS

In re Application of :
Silverbrook, et al. :
Application No. 10/760,225 : DECISION ON PETITION
Filed: January 21, 2004 :
Docket No.: WAL02US :

This is a decision on the petition under 37 CFR 1.181, filed November 7, 2006, to withdraw the holding of abandonment.

The petition is **DISMISSED AS MOOT**.

The corrected Notice of Allowance mailed August 22, 2006 set a three month statutory period of time for reply, making a response due on or before November 22, 2006. The issue fee was timely received within that time period set for reply. Accordingly, the instant application is not abandoned.

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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BALMAIN NSW 2-041 AU AUSTRALIA

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SEP 01 2006
OFFICE OF PETITIONS

In re Application of:	:	
Silverbrook et al.	:	
Application No. 10/760,228	:	DECISION ON
Filed: January 21, 2004	:	PETITION
Attorney Docket Number: WAL05US	:	

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed December 22, 2005. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action, mailed April 13, 2005. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned July 14, 2005. A Notice of Abandonment was mailed November 21, 2005.

With the instant petition, Applicant has filed an Amendment in response to the non-final Office action.

This application is being referred to Technology Center 2854 for processing of the Amendment in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 09-07

Paper No: __

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OFFICE OF PETITIONS

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU
AUSTRALIA

In re Application of :
Silverbrook :
Application No.: 10/760,248 :
Filing Date: 21 January, 2004 :
Attorney Docket No. RRA 15 US :

DECISION

This is a decision on the petition filed on 28 August, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

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 petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[1]

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 12 January, 2007, with reply due absent extension of time on or before 12 April, 2007;
- the application went abandoned by operation of law after midnight 12 April, 2007;
- Petitioner submitted an amendment after final, which–as one who appears to have several applications in prosecution before the Office as well as several issued patents–Petitioner knows that the after-final amendment is not as of right and not a proper reply if it does not *prima facie* place the application in condition for allowance,[2] and on 20 March, 2007, the Examiner mailed an Advisory Action that Petitioner now complains that he did not receive and in the place of which he most certainly would have filed a proper reply;
- Petitioner–who also appears to have obtained from the Office Customer Number 24,011–clearly did not file a proper reply timely and properly to the 12 January, 2007, which is what triggered the abandonment by operation of law herein, and it was that failure, and not Petitioner's averred non-receipt of the Examiner's advisory action that is at issue herein;[3]

---

[1] 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.

[2] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

[3] As is discussed below, Petitioner clearly received the 12 January , 2007, final Office action (but failed to reply to it timely and properly) and he needed no further Notice that his application was going abandoned–moreover, one who diligently associates his Customer Number with his application(s) can see the details of applications online twenty-four (24) hours a day, seven (7) days a week.

- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;

- on 28 August, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that he did not receive a copy of the 27 March, 2007, Advisory Action[4] but does not deny that he received the 12 January, 2007, final Office action, nor does he make the statement of search, provided docket records for the instant application and the due date of the reply as set forth in the guidance of the Commentary at MPEP §711.03(c), as discussed below.

The statutes, the rules of practice and the guidance set forth in the Commentary of the Manual of Patent Examining Procedure (MPEP) provide many avenues for action and methods of protection for applicants, patentees, assignees, practitioners and others to accomplish tasks before the Office.

However, persons who fail to utilize those statutes and rules fail to succeed in their tasks or obtain those protections.

Notably, the availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner immediate and on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that 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.[5]

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[4] Petitioner appears not only to acknowledge that he knew the Advisory Action had been mailed, but also to have seen and reviewed the paper–but, again, it is not Petitioner's failure to reply to the Advisory Action, but rather his failure to reply timely and properly to the 12 January, 2007, final Office action that triggered the abandonment by operation of law herein.

[5] 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.

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).[6]

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.[7]

(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[6] 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.

[7] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

Delays in responding properly raise the question whether delays are unavoidable.[8] 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).[9]

And the Petitioner must be diligent in attending to the matter.[10] Failure to do so does not constitute the care required under Pratt,[11] 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.[12]))

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.[13]

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the

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[8] 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).

[9] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[10] 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.

[11] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more 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, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[12] 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.

[13] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

- Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has not satisfied the showing requirement herein.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens herein, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)[14]

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[15]

By mail: Commissioner for Patents[16]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571)

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[14] See fee schedule: http://www.uspto.gov/main/howtofees.htm

[15] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[16] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[17]) 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

[17] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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PTY LTD
393 DARLING STREET
BALMAIN 2041 AU
AUSTRALIA

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OFFICE OF PETITIONS

In re Application of :
Silverbrook :
Application No. 10/760,248 : DECISION
Filed: 21 January, 2004 :
Attorney Docket RRA 15 US :

This is a decision on the petition filed on 2 October, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, as set forth below:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the final Office action mailed on 12 January, 2007, with reply due absent extension of time on or before 12 April, 2007.

The application went abandoned by operation of law after midnight 12 April, 2007;

Petitioner submitted an amendment after final, which–as one who appears to have several applications in prosecution before the Office as well as several issued patents–Petitioner knows that the after-final amendment is not as of right and not a proper reply if it does not *prima facie* place the application in condition for allowance, and on 20 March, 2007, the Examiner mailed an Advisory Action.

Petitioner appears to have obtained from the Office Customer Number 24,011–clearly did not file a proper reply timely and properly to the 12 January, 2007, Office action which is what triggered the abandonment by operation of law herein, and it was that failure, and not Petitioner's averred non-receipt of the Examiner's advisory action that is at issue.

Thus, the 28 August, 2007, petition seeking withdrawal of the holding of abandonment under 37 C.F.R. §1.181 was dismissed on 27 September, 2007, in the absence of, *inter alia*, averment of non-receipt of the 12 January, 2007, final Office action, along with the statement of search, with copies of docket records for the instant application and the due date of the reply as set forth in the guidance of the Commentary at MPEP §711.03(c).

On 2 October, 2007, Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of a request for continued examination with fee, pointing to the previously filed amendment as the submission under 37 C.F.R. §1.114, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts

of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2,3]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 2853 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center/AU OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made:) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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

June 25, 2007

Kia Silverbrook
SILVERBROOK RESEARCH PTY LTD.
393 Darling Street
Balmain NSW 2041
AUSTRALIA

Patent No.: 7198352 B2
Application No.: 10/760259
Inventor(s): **Kia Silverbrook**
Issued: **April 3, 2007**
Title: **INKJET PRINTER CRADLE WITH CARTRIDGE STABILIZING MECHANISM**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

C. A copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450 ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036
www.uspto.gov

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FEB 0 4 2008

OFFICE OF PETITIONS

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AUSTRALIA

In re Patent No. 7,198,352 :
Issue Date: April 3, 2007 :
Application No. 10/760,259 : ON PETITION
Filed: January 21, 2004 :
Attorney Docket No. RRA24US :

This is a decision on the petition filed October 30, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

David Bucci
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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P.O. Box 1450
Alexandria, VA 22313-1450
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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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AUG 31 2006

OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 10/760,281 : DECISION ON PETITION
Filed: January 21, 2004 : UNDER 37 CFR 1.55(c)
Attorney Docket No. MR2349-984 :

This is a decision on the petition under 37 CFR 1.55(c), filed June 2, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Taiwan Application No. 092219257, filed October 30, 2003.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Charlema Grant at (571) 272-3215.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE: J. Weber

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/22/07

TO SPE OF : ART UNIT 1657

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/760,283 Patent No.: 7214116

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 5 Jul 07
SPE **Art Unit**

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

11/17/08

Patent No. :7009596
Inventor(s) : Chern H. Seet et al.
Issued : 3/7/2006
Title : CA PROGRAMMABLE VIRTUAL BOOK SYSTEM
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that the Drawings are printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

OBLON SPIVAK McCLELLAND, MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

HR/CBN

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FEB 22 2005
TECHNOLOGY CENTER 1700
PATENT & TRADEMARK OFFICE

CERTIFICATE OF MAILING 37 C.F.R. 1.10

EXPRESS MAIL NO. EV 342456766 US

I herby certify that this correspondence is being deposited with the United States Postal Service as Express Mail on the date indicated, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

February 22, 2005
Date

Tanya M. Melasecca

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: **Rodney L. Pettis**	Attorney Docket No. 025635.011.042
Serial No.: 10/760,337	Examiner: Sow Fun Hon
Filed: January 20, 2004	Group Art Unit: 1772
For: **Elastomer and Polyolefin Resin Based Films and Associated Methods**	

02/25/2005 LWONDIM1 00000023 10760337
01 FC:1464 130.00 OP

PETITION TO MAKE SPECIAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Jeffrey S. Whittle, Reg. No. 36,382, am attorney of record for the above-identified application. On behalf of Applicant, I hereby petition the Commissioner pursuant to 37 CFR § 1.102 and MPEP § 708.02 to make this application special and request that examination of the application take place in an accelerated manner.

To Applicant's knowledge, this application has not yet received any significant examination by the Examiner. Prior to submitting this Petition, and at the request of the Examiner, Applicant has elected without traverse to restrict examination to claims 1-27 of the application. Applicant has made or caused to be made a search of the prior art with respect to the particular feature or features claimed in the application, and the references listed herein have been located. The search was conducted in a database which included U.S. patent and patent applications available as of 11/04/03 in classes/subclasses 428/34.6, 34.7, 34.9, 35.1, 36.8, 36.91, 36.92, 515, 516, 517, 519 and 521.

Applicant has enclosed one copy of each of the patent documents deemed most closely related to the subject matter encompassed by the claims, and has included herein a detailed

Fee paid on 2-25-05

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 MAR 16 2005

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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DONALD J. DALEY
HARNESS DICKEY & PIERCE, PLC
P.O. BOX 8910
RESTON, VA 20195

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SEP 17 2007

OFFICE OF PETITIONS

In re Patent No. 6,937,520 :
Issue Date: August 30, 2005 :
Application No. 10/760,351 : ON PETITION
Filed: January 21, 2004 :
Attorney Docket No. 1768-000001/US :

This is a decision on the petition under 37 CFR 1.182, filed May 17, 2007, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letter Patent.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of the duplicate Letters Patent should be directed to either Krystal Paige at (703) 308-9250 ext. 139.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower 8th Floor, C-32 Fax (571) 270-9937.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

FITZPATRICK CELLA
HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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SEP 28 2007

OFFICE OF PETITIONS

Patent No. 7,177,168	:	LETTER REGARDING
Issue Date: February 13, 2007	:	PATENT TERM ADJUSTMENT
Application No. 10/760,353	:	AND
Filed: January 21, 2004	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 00862.022392.1	:	CERTIFICATE OF CORRECTION

This letter is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT" filed March 29, 2007. Pursuant to patentees' duty of good faith and candor to the Office, patentees request review of the Patent Term Adjustment for the above-identified patent.

The request for reconsideration of patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred seventy-nine (379) days.

On February 13, 2007, this application matured into U.S. Patent No. 7,177,168, with a revised patent term adjustment of 430 days. Patentees give no basis for their assertion that this patent term adjustment is incorrect.

Nonetheless, a review of the application history confirms that patentees are correct that it is incorrect. A period of reduction of 63 days, not 16 days, should have been entered, pursuant to § 1.704(c)(10), for applicant delay in filing an Information Disclosure Statement (IDS) on October 5, 2006 after the mailing of the notice of allowance. The IDS did not include

a § 1.704(d) statement. The Office took action in response to the IDS on December 6, 2006, not October 16, 2006. Accordingly, pursuant to 1.704(c)(10), a reduction of 63 days, not 12 days, for the period beginning on October 5, 2006 and ending on December 6, 2006 should have been entered.

In view thereof, the patent should have issued with a revised patent term adjustment of three hundred seventy-nine (379) days.

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 application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **THREE HUNDRED SEVENTY-NINE (379)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,177,168 B2

DATED : February 13, 2007

INVENTOR(S) : Toyomura 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 (430) days

Delete the phrase "by 430" and insert – by 379 days--

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.

Dan Falcone
5081 Bradley Blvd.
Chevy Chase MD 20815

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FEB 0 6 2008

OFFICE OF PETITIONS

In re Application of :
Daniel Francis Falcone : DECISION ON PETITION
Application No. 10/760,360 :
Filed: January 21, 2004 :
Title: DEVICE AND METHOD FOR :
EXERCISE AND REHABILITATION :

This is in response to the communication filed October 16, 2007 by applicant. Therein applicant respectfully requests withdrawal of abandonment status for the above-identified application.

The above-identified application became abandoned for failure to timely file a reply to the Office action mailed January 22, 2007. This Office action set a shortened statutory period of the longer of three months for reply, with extensions of time obtainable under § 1.136(a). A reply was received on Tuesday, April 24, 2007. This was outside of the shortened statutory period. No petition for extension of time for reply was received. Thus, the reply received was untimely. No timely reply having been received in the Office and no extension of time obtained, the above-identified application became abandoned on April 23, 2007. A courtesy Notice of Abandonment was mailed on September 13, 2007.

In response, applicant timely filed the instant petition. Applicant states that their response was timely sent. In support thereof, applicant submits a copy of their United States

Postal Service Sales Receipt, showing that $1.46 was paid for postage of a first-class letter on April 18, 2007.

Petitioner's evidence is not persuasive that the holding of abandonment should be withdrawn. No weight is given to a USPS Sales Receipt as the Office has provided for correspondence mailed within the time period for reply to be considered timely filed even if it is received in the Office after the period for reply has ended. Specifically, 37 CFR § 1.8(a) Certificate of mailing or transmission provides:

> (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;
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6 (d); or
> (C) Transmitted via the Office electronic filing system in accordance with § 1.6(a)(4); and
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

It is undisputed that the response was received in the Office on April 24, 2007. Moreover, there is no dispute that no extension of time was filed. A review of applicant's response confirms that it did not include a certificate of mailing under 37 CFR 1.8. Without such a certificate of mailing pursuant to 37 CFR 1.8 (or a showing that the paper was deposited in the USPS by Express Mail pursuant to 37 CFR 1.10), applicant's paper is

properly considered filed on the date of receipt in the Office, April 24, 2007. Receipt of the paper on April 24, 2007, is not timely.

As applicant has not established timely submission of a response to the Office action mailed January 22, 2007, the holding of abandonment is affirmed.

The petition under § 1.181 is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are not permitted. See 1.181(f).

Alternatively, applicant may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. § 1.137(a)" or "Petition under 37 C.F.R. § 1.137(b)," as appropriate.

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:	(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) 272-3219.

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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KRATZ, QUINTOS & HANSON, LLP
1420 K STREET, N.W.
SUITE 400
WASHINGTON DC 20005

RECEIVED
DEC 23 2008
OFFICE OF PETITIONS

In re Patent No. 7,451,040 :
Application No. 10/760,363 :
Filed: January 21, 2004 : ON PETITION
Issued: November 11, 2008 :
Attorney Docket No. 040012 :

This is a decision on the petition filed November 18, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

MAILED
FROM DIRECTORS OFFICE

JUN 27 2005

TECHNOLOGY CENTER 3600

BORDEN LADNER GERVAIS LLP
World Exchange Plaza
100 Queen Street, Suite 1100
Ottawa, ON K1P 1J9
CANADA

In re application of
Dwight L. Adamic :
Application No. 10/760,378 : **DECISION ON REQUEST**
Filed: January 21, 2004 : **FOR WITHDRAWAL OF**
For: INSERT FOR LOCKING MECHANISM FOR GROUND ENGAGING TOOLS : **ATTORNEY**

This is a decision on the request filed on June 14, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with condition B).

As to condition B), while a reason may be provided by referencing a specific portion of 37 CFR 10.40, the reason must deal with actions by the client. In this case, there is nothing in the file record that indicates the existence of an assignee or that the assignee is the client. Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 06/20/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

COPY MAILED

AUG 20 2007

OFFICE OF PETITIONS

In re Application of :
Ying-Hsien Chen, et. al. :
Application No. 10/760,384 : DECISION ON PETITION
Filed: January 21, 2004 :
Attorney Docket No. CHEN3621/EM :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed on March 14, 2007, requesting withdrawal of the holding of abandonment in the above-identified application.

The above application was held abandoned for failure to timely respond to the non-final Office action mailed August 14, 2006, which set a three (3) month shortened statutory period for reply.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard receipt, which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on February 13, 2007 of, *inter alia,* an amendment and $1,020 check for a three month extension of time. A copy of the previously submitted reply accompanies the petition.

The amendment and extension of time have been located and are of record in the application file. Further, MPEP 503 states: that "[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." Accordingly, it is concluded that the reply was timely received in the USPTO.

In view of the above, the petition is **GRANTED** and the holding of abandonment is hereby withdrawn and the application is restored to pending status.

This application is being referred to Technology Center Art Unit 2879, for appropriate action in the normal course of business on the reply received with petition.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

LOWE HAUPTMAN GILMAN
AND BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300/310
ALEXANDRIA, VA 22314

COPY MAILED

AUG 1 9 2004

OFFICE OF PETITIONS

In re Application of :
Soeng Seck Han :
Application No. 10/760,388 :
Filed: January 21, 2004 : ON PETITION
For: AIR CONDITIONER FOR VEHICLE:

This is a decision on the Petition, filed June 15, 2004, requesting the application be accorded a filing date of January 21, 2004, including drawing Figures 1 - 6 described in the specification.

The petition is **granted**.

The application was filed on January 21, 2004. However, on April 27, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that a filing date had NOT been accorded the application because the application had been deposited without drawings.

In response, Petitioner files the instant petition wherein Petitioner avers that six (6) sheets of formal drawings were originally filed with the application on January 21, 2004, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 6 sheets of formal drawings on January 21, 2004.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of six (6) sheets of formal drawings on January 21, 2004. Petitioner has also re-submitted six (6) sheets of drawings, comprising Figures 1 - 6, with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The copy of 6 sheets of drawings, comprising Figures 1 - 6, supplied on June 15, 2004, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 07-1337 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of January 21, 2004, and an indication that 6 sheets of drawings were present on filing, using the 6 sheets of drawings filed on June 15, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICE OF PHILIP A STEINER
1212 MARSH STREET
SUITE 3
SAN LUIS OBISPO, CA 93401

COPY MAILED

NOV 30 2007

OFFICE OF PETITIONS

In re Application of :
MEDIZADE, Masoud, et al. :
Application No. 10/760,437 : DECISION ON PETITION
Filed: January 20, 2004 : TO WITHDRAW
Attorney Docket No. **UT01152004** : 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 26, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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, (attorney of record has been hired by another law firm), does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4231.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
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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LAW OFFICE OF PHILIP A STEINER
1212 MARSH STREET
SUITE 3
SAN LUIS OBISPO, CA 93401

COPY MAILED

JAN 0 2 2008

OFFICE OF PETITIONS

In re Application of :
MEDIZADE, Masoud et al. :
Application No. 10/760,437 : DECISION ON PETITION
Filed: January 20, 2004 : TO WITHDRAW
Attorney Docket No. **UT01152004** : 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 05, 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 Phillip A. Steiner on behalf of all attorneys of record who are associated with customer No. 31105. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Masoud Medizade at the address indicated below.

There is an outstanding Office action mailed September 10, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MASOUD MEDIZADE**
128 TWIN RIDGE DRIVE
SAN LUIS OBISPO, CALIFORNIA 93401

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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NOV 0 3 2008

OFFICE OF PETITIONS

Ganz Law, P.C.
P.O. Box 2200
Hillsboro, OR 97123

In re Application of
Masoud Medizade et al.
Application No. 10/760,437
Filed: January 20, 2004
Attorney Docket No. UT01152004

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 10, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Bradley M. Ganz on behalf of all attorneys/agents associated with customer number 22874. All attorneys/agents associated with customer number 22874 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Masoud Medizade
128 Twinridge Drive
San Luis Obispo, CA 93405

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/760,437	01/20/2004	Masoud Medizade	UT01152004

CONFIRMATION NO. 9186

22874
GANZ LAW, P.C.
P O BOX 2200
HILLSBORO, OR 97123

POWER OF ATTORNEY NOTICE

OC000000032906828

Date Mailed: 10/31/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/10/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 8, 2006

TO SPE OF : ART UNIT 3653 David H. Bollinger

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/760,451 Patent No.: 7029003 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**.

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

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: _____

PATRICK MACKEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE 3653 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
WASHINGTON DC 20006-5403

COPY MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Patent No. 7,485,041 :
Issued: February 3, 2009 :
Application No. 10/760,482 : ON PETITION
Filed: January 21, 2004 :
Attorney Docket Number: H9876.0077/P077 :

This is a decision on the petition filed May 7, 2009, under 37 CFR 3.81(b)[1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the name of a second assignee, was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the second 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.

Office assignment records reflect that NINTENDO CO., LTD. is also an assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

---

[1] *See* Official Gazette of June 22, 2004

The petition fee and the fee for the certificate of correction have been properly applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 5, 2009

TO SPE OF : ART UNIT 3617
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/760487 / 7059261

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. 120

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: Note: Error is Applicant's & Not USPTO's. While correction does correspond to cl 16 in the 7/26/05 amendment, it does NOT correspond to cl 16 in the 2/6/06 amendment. Applicant made mistake in copying claim 16.

/SPE/ — SPE

3617 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TAIYO CORPORATION
401 HOLLAND LANE
#407
ALEXANDRIA, VA 22314

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FEB 13 2006

OFFICE OF PETITIONS

In re Application of :
Tomoyuki Ohzeki, et al. :
Application No. 10/760,496 : DECISION ON PETITION
Filed: January 21, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. FS-F03224-01 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 18, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. 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 applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1752 for appropriate action on the amendment filed July 18, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

SPE G. Epps

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/760,498

Paper No.: _____

DATE : 6/9/05

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction on Patent No.: 6865028

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
Certificates of Correction Branch
Tel. No. 703-305-8309

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Georgia Y Epps
SPE

2873
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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OLIFF & BERRIDGE PLC
PO BOX 19928
ALEXANDRIA VA 22320

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SEP 15 2004

OFFICE OF PETITIONS

In re Application of :
Jacquelyn A. Westley, Dean Jones, :
Ian Andrews :
Application No. 10/760,527 : DECISION ACCORDING STATUS
Filed: January 21, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 118287

This is in response to the petition under 37 CFR 1.47(a), filed July 20, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on January 21, 2004, without a fully executed oath or declaration. Accordingly, on April 29, 2004, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application", requiring a fully executed oath or declaration as well as the surcharge for its late filing. This notice set a shortened statutory period for reply of two months.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63;

(3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has attested that a copy of the application papers was forwarded to the last known address of Westley. According to Rule 47 applicant, no executed declaration from Westley has been received.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 1742 for docketing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

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AUG 3 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Lassen, et al. :
Application No. 10/760,528 :
Filed: January 21, 2004 :
Attorney Docket No. 081069-0307658 :

This is a decision on the papers styled, "Petition For Withdrawal Of Notice of Omitted Items," filed on June 8, 2004, which has been treated as a Petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of January 21, 2004, including Figures 6 and 10, as described in the specification.

The application was filed on January 21, 2004. However, on April 29, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Corrected Application Papers" (Notice) that stated the application had been accorded a filing date, but Figures 6 and 10, as described in the specification appear to have been omitted.

In response, on June 8, 2004, the instant petition and a two (2) pages of drawings that include Figures 6 and 10, as described in the specification, were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of fourteen (14) sheets of drawings on January 21, 2004.

A review of the application file indicates the presence of fourteen (14) sheets of drawings filed on January 21, 2004. These sheets include Figures 6 and 10.

As the omitted Figures filed January 21, 2004 have been found in the application file, the petition is granted, and the Notice is hereby withdrawn.

The $130.00 petition will be refunded to deposit account no. 03-3975.

This application will be returned to OIPE for further processing with a filing date of January 21, 2004, including all Figures as described in the specification.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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OCT 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Hallin et al	:	
Application No. 10/760,564	:	ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. 36381	:	

This is a decision on the petition, filed March 25, 2005, under 37 CFR 1.313(a) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(2) Consideration of a submission pursuant to 37 CFR 1.114; or
(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

The instant petition is not accompanied by any of the above.

Petitioner should be aware that even though the examiner acted on the petition under 37 CFR 1.48, prematurely, a decision had not been rendered on the petition under 37 CFR 1.313(a). Also, petitioner submitted a paper entitled "Request For Withdrawal Of Foreign Priority Claim and Foreign Priority Claim" on March 25, 2005, which may require further search by the examiner. The issue fee was due on or before May 25, 2005. There is no indication that the issue fee was received on or before the due date of May 25, 2005. Petitioner is advised that the filing of a petition to withdraw from issue did not toll the period for payment of the issue fee. Therefore, the application stands **Abandoned** for failure to pay the issue fee.

Petitioner may consider filing a petition to revive under 37 CFR 1.137(b), and a petition in compliance with 37 CFR 1.313(c)(2).

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 facsimile:	(571) 273-8300 Attn: Office of Petitions
By hand:	Randolf Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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NOV 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Hallin et al	:	
Application No. 10/760,564	:	ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. 36381	:	

This is a decision on the petition, filed November 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED** as moot.

The petition is dismissed as moot because the Office received the required fee for a petition to revive under 37 CFR 1.137(b). However, the petition itself has not been received.

In view thereof, petitioner should submit a petition to revive under 37 CFR 1.137(b) and a renewed petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petitions Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300 Attn: Office of Petitions
By hand:	Randolf Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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DEC 2 1 2006

OFFICE OF PETITIONS

In re Application of :
Anders Hallin et al :
Application No. 10/760,564 : ON PETITION
Filed: January 20, 2004 :
Attorney Docket No. 36381 :

This is a decision on the petition filed December 11, 2006, under 37 CFR 1.137(b), to revive the above-identified application. This is also a decision on the renewed petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee on or before May 25, 2005. Accordingly, the above-identified application became abandoned on May 26, 2005.

As to the petition under 37 CFR 1.313(c)(2):

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 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]

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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).

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3744 for processing of the request for continued examination under 37 CFR 1.114.

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
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OFFICE OF THE DIRECTOR
TC 3600

RICHARD C. LITMAN
LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
Arlington, VA 22215

In re application of
Stanley C. Hewitt
Application No. 10/760,588
Filed: January 21, 2004
For: AMPHIBIOUS VEHICLE

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on January 21, 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. Hewitt indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 10/14/04

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Steven J. Henry
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

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OFFICE OF PETITIONS

In re Application of

Stuart Philip Speakman.

Application No. 10/760,611

Filed: January 20, 2004

Attorney Docket No. M0274.70031US01

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), June 12, 2006, 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 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed January 31, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on May 1, 2006.

The issue fee was received on June 12, 2006.

Form PTOL-85B, filed June 12, 2006, is noted and made of record.

The application is being directed to Technology Center 2800, GAU 2818 for processing of the amendment after final, filed June 12, 2006.

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

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/02/04

Bromberg & Sunstein LLP
125 Summer Street
Boston, MA

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/760628 received on 02/18/04 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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JOHN MCLEOD
SOUTHWEST RESEARCH INSTITUTE
6220 CULEBRA
SAN ANTONIO TX 78228

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OFFICE OF PETITIONS

In re Patent No. 7,017,547 :
Issue Date: March 28, 2006 :
Application No. 10/760,645 : ON PETITION
Filed: January 20, 2004 :
Attorney Docket No. P-17-151 :

This is a decision on the petition filed July 3, 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

cc:
GUNN & LEE, PC
700 N. ST. MARY'S ST. STE. 1500
SAN ANTONIO, TX 78205-3541

[1]See Official Gazette of June 22, 2004

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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
10/760,651	01/20/2004	2111	1212	200313615-1	5	35	5

CONFIRMATION NO. 9869

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

CORRECTED FILING RECEIPT

OC000000013235108

Date Mailed: 07/14/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Gregory Edward Tierney, Chelmsford, MA;
Stephen R. Van Doren, Northborough, MA;
Simon C. Steely JR., Hudson, NH;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/29/2004

Projected Publication Date: 07/21/2005

Non-Publication Request: No

Early Publication Request: No

Title

System and method for conflict responses in a cache coherency protocol with ordering point migration

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/760,652	01/20/2004	2188	1212	200313614-1	5	35	5

CONFIRMATION NO. 9868

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

CORRECTED FILING RECEIPT

OC000000013210518

Date Mailed: 07/12/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Gregory Edward Tierney, Chelmsford, MA;
Stephen R. Van Doren, Northborough, MA;
Simon C. Steely JR., Hudson, NH;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/29/2004

Projected Publication Date: 07/21/2005

Non-Publication Request: No

Early Publication Request: No

Title

System and method for creating ordering points

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

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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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In support of its 21st Century Strategic Plan goal of increased patent e-Government, beginning in June 2004, the United States Patent and Trademark Office (Office or USPTO) will begin the phase-in of its E-Patent Reference program and hence will: (1) **provide downloading capability of the U.S. patents and U.S. patent application publications cited in Office actions** via the E-Patent Reference feature of the Office's Patent Application Information Retrieval (PAIR) system; and (2) **cease mailing paper copies of U.S. patents and U.S. patent application publications with Office actions** (in applications and during reexamination proceedings) except for citations made during the international stage of an international application under the Patent Cooperation Treaty (PCT). In order to use the new E-Patent Reference feature applicants must: (1) obtain a digital certificate and software from the Office; (2) obtain a customer number from the Office; and (3) properly associate patent applications with the customer number. Alternatively, copies of all U.S. patents and patent application publications can be accessed without a digital certificate from the USPTO web site, from the USPTO Office of Public Records, and from commercial sources. The Office will continue the practice of supplying paper copies of foreign patent documents and non-patent literature with Office actions. Paper copies of cited references will continue to be provided by the USPTO for international applications during the international stage.

Schedule

June 2004	TCs 1600, 1700, 2800 and 2900
July 2004	TCs 3600 and 3700
August 2004	TCs 2100 and 2600

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Other Options

The E-Patent Reference function requires the applicant to use the secure Private PAIR system, which establishes confidential communications with the applicant. Applicants using this facility must receive a digital certificate, as described above. Other options for obtaining patents which do not require the digital certificate include the USPTO's free Patents on the Web program (http://www.uspto.gov/patft/index.html). The USPTO's Office of Public Records also supplies copies of patents for a fee (http://ebiz1.uspto.gov/oems25p/index.html). Commercial sources also provide U.S. patents and patent application publications.

For complete instructions see the Official Gazette Notice, USPTO TO PROVIDE ELECTRONIC ACCESS TO CITED U.S. PATENT REFERENCES WITH OFFICE ACTIONS AND CEASE SUPPLYING PAPER COPIES, on the USPTO web site.

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DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

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OFFICE OF PETITIONS

In re Application of

Burgess, et al.

Application No. 10/760,655

Filed: January 17, 2004

Attorney Docket No. 300-27 DIV III

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), first filed on May 12, 2005, and in duplicate on September 8, 2005.

The petition is **granted**.

This application was held abandoned on December 21, 2004, after no reply was received to the Notice of Allowance and Issue Fee Due mailed September 20, 2004. The notice set forth a statutory period for reply of three months from its mailing date. The instant petition was filed on May 12, 2005. Petitioner maintains that the notice of September 20, 2004, was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2800, GAU 2832 for resetting of the time period for responding to the Notice of Allowance and Issue Fee Due.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions