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HUSCH & EPPENBERGER LLC
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS, MO 63105-3441

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NOV 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Knud Klingler	:	
Application No. 10/760,658	:	DECISION ON PETITIONS
Filed: January 19, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 41587.012502(346)	:	AND 37 CFR 1.55(c)

This is a decision on the petition, filed August 29, 2006, which, for the reasons stated below, is being treated under the provisions of both 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to a prior-filed international PCT application, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application.

The petitions are **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) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The petition seeks acceptance of a late claim for priority to international Application No. PCT/EP99/03825, filed June 2, 1999, as a foreign application, as well as to foreign German

Application No. 19825225, filed June 5, 1998. A claim for domestic priority was made in the transmittal letter on filing to Application No. 09/729,538, filed December 4, 2000. As the PCT application to which petitioner is now seeking to claim benefit of priority was filed on June 2, 1999, benefit as a foreign application would be improper since the filing date of intermediate Application No. 09/729,538 is more than 12 months from the filing date of the PCT application. As such, this application is not entitled to a claim for benefit of priority to the PCT application as a foreign application under the provisions of 35 U.S.C. § 119(a)-(d) through intermediate Application No. 09/729,538. However, pursuant to 35 U.S.C. § 365(c), a regular national application filed under 35 U.S.C. § 111(a) and 37 CFR 1.53(b) may claim benefit of the filing date of an international application which designates the United States. Accordingly, this petition has been treated as one requesting acceptance of a late claim for priority under the provisions of 37 CFR 1.78(a)(3) for benefit of domestic priority to the above-noted PCT application under 35 U.S.C. §§ 120 and 365(c).

It is further noted that the amendment improperly states that prior-filed Application No. 09/729,538 is a national phase of PCT/EP99/03825. Inspection of relevant USPTO records reveals that prior-filed parent Application No. 09/729,538 was not filed under the provisions of 35 U.S.C. § 371 but, rather, under the provisions of 35 U.S.C. § 1.111(a) and 37 CFR 1.53(b). Accordingly, there is clearly no basis for the assertion that 09/729,538 can be the national phase of any application filed under a multinational treaty. If petitioner should persist in the assertion that 09/729,538 is a national phase of any treaty filed application, then he is requested to provide clear and convincing documentary evidence to support his assertion. In the absence of such clear and convincing evidence, prior-filed Application No. 09/729,538 did not enter the national phase in the United States and as such may only be viewed as a "bypass" application described in MPEP 1895. It follows that, since petitioner clearly wishes to obtain benefit of the 09/729,538, application, the PCT international filing date, and the German national application filing, 09/729,538 can best be properly described as a U.S. continuing application under 35 U.S.C. §§ 120 and 365(c) of PCT/EP99/03825. However, under this circumstance, in order to obtain benefit of the German national filing via the PCT application, and since there is no evidence that application ever entered the national stage in the U.S., a certified copy of the German national application is required. See MPEP 1895.01:

> A claim for foreign priority under 35 U.S.C. 119 (a)-(d) must be made in the continuing application in order to obtain the benefit of the filing date of the prior filed foreign application. This is true regardless of whether such a claim was made in the parent international application. A foreign priority claim is proper in the continuing application if the foreign application was filed within 12 months prior to the filing of the continuing application or within 12 months prior to the international filing date of the parent international application. In addition, the required claim must be made within the time period set forth in 37 CFR 1.55 (a)(1). This time period is not extendable. See MPEP § 201.14. A certified copy of any foreign priority document must be provided by the applicant unless the

> parent international application has entered the national stage under 35 U.S.C. 371 and the national stage application contains a photocopy of the priority document from the International Bureau. See MPEP § 1893.03(c). In such case, the applicant, in the continuing application, may state that the priority document is contained in the national stage application

Since inspection of 09/729,538 (now a U.S. patent) fails to reveal that such a priority benefit was claimed, correction of the priority claim of the prior patent must be effectuated before the corrected claim may be made herein.

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

The rule at 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application or international application claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States 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) or international application and international filing date and indicating the **relationship** of the applications. *Note also* MPEP 1895.01, which states:

> To obtain benefit under 35 U.S.C. 120 and 365(c) of a prior international application designating the U.S., the continuing application must:
>
> (A) include a specific reference to the prior international application (either in the application data sheet (37 CFR 1.76) or in the first sentence of the specification),
> (B) be copending with the prior international application, and
> (C) have at least one inventor in common with the prior international application.

The **relationship** between the applications is whether the application is a continuation, continuation-in-part, or division. An example of an appropriate first sentence of the specification is, for example, "this is a continuation of International Application PCT/EP04/00000." The reference to the prior filed applications must be included in either the first sentence of the specification following the title or in an application data sheet pursuant to the provisions of 37 CFR 1.76. The petition is not accompanied by the reference required by 37 CFR 1.78(a)(2)(i) and (iii).

Further, it is noted that prior-filed Application No. 09/729,538 does not make a reference to prior-filed International Application No. PCT/EP99/03825. Where an application claims a benefit under 35 U.S.C. § 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply

Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. Petitioner **may have** relief by filing a petition in prior-filed parent Application No. 09/729,538 under 37 CFR 1.78(a)(3) (and fee of $1,370) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 120 and 365(c) to International Application No. PCT/EP99/03825. As prior-filed Application No. 09/729,538 is now a patent, the petition must also be accompanied by a certificate of correction and fee therefor.

For the reasons set out above, the petition to accept an unintentionally delayed claim for domestic priority under 37 CFR 1.78(a)(3) to International Application No. PCT/EP99/03825 cannot be granted.

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

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

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

The petition under 37 CFR 1.55(c) is **DISMISSED**.

The petition fails to comply with item (2) above. In this regard, the application data sheet fails to state the correct filing date of the foreign German application (Application No. 19825225). More specifically, the application data sheet states that the filing date of the German application is June 2, 1999, rather than the correct filing date of June 5, 1998. *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 German national application noted in the petition.

If petitioner seeks reconsideration of this decision, the renewed petition should be entitled "Renewed Petition under 37 CFR 1.78(a)(3) and 1.55(c)" and contain a proper statement of unintentional delay as to the delayed filing of the claim for benefit to the international and foreign applications. The renewed petition should be addressed as follows:

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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MAY 15 2007

OFFICE OF PETITIONS

Brooke Schumm, III
Daneker, McIntire, Schumm, et al
One. N. Charles St., Suite 2450
Baltimore, MD 21201

In re Application of:
Richard Rynd
Application No.: 10/760,689
Filed: January 20, 2004
Atty's Docket No.: None

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed December 15, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed August 16, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on November 16, 2006.

On December 15, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

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

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

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FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Jerry L. Farrar et al	:	
Application No. 10/760,700	:	ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. CARSON.12CPCC1	:	

This is a decision on the petition, filed May 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 3634 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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MARTIN & HENSON, P.C.
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD CO 80226

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OFFICE OF PETITIONS

In re Application of	:	
William S. Treadwell	:	
Application No. 10/760,711	:	DECISION ON PETITION
Filed: January 20, 2004	:	TO WITHDRAW
Attorney Docket No. 2019	:	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 1, 2006.

The request is **APPROVED**.

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

The request was signed by Michael R. Henson on behalf of all attorneys of record who are associated with customer No. 24264.

All attorneys/agents associated with the Customer Number 24264 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).

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: WILLIAM SCOTT TREADWELL
100 LUNA PARK DRIVE
#159
ALEXANDRIA, VA 22305

cc: SYTEX, INC. C/O BARBARA LOSCALZO
VICE PRESIDENT AND GENERAL COUNSEL
LOCKHEED MARTIN INFORMATION &
TECHNOLOGY CENTER
2339 ROUTE 70 WEST
CHERRY HILL, NJ 08002

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/760,711	01/20/2004	William S. Treadwell	2019

CONFIRMATION NO. 8303

OC000000021083150

OC000000021083150

24264
MARTIN & HENSON, P.C.
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD, CO 80226

Date Mailed: 11/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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BECTON, DICKINSON & COMPANY
1 BECTON DRIVE
MC 110
FRANKLIN LAKES, NJ 07417

Mail Date: 04/21/2010

Applicant	: Jamie Crawford	: DECISION ON REQUEST FOR
Patent Number	: 7604613	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/760,733	: 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 **222** 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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ONE JOHN DEERE PLACE
MOLINE IL 61265

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OCT 18 2005

OFFICE OF PETITIONS

In re Application of
Clemens Rickert
Application No. 10/760,782
Filed: January 20, 2004
Attorney Docket Number: 09220-US
Title: DRIVE TRAIN FOR A HEADER OF A HARVESTING MACHINE

DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.112 in a timely manner to the non-final Office action mailed November 1, 2004, which set a shortened statutory period for reply of 3 months. No response was received, and no extensions of time were requested. As such, the above-identified application became abandoned on February 2, 2005. A Notice of Abandonment was mailed on June 1, 2005.

With the present petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

The Power of Attorney and Change of Correspondence Address have been entered and made of record.

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

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wk

Mailed: 6/26/07

In re application of	:	
Sreenivasan et. al.	:	DECISION ON
Serial No. 10/760,821	:	PETITION
Filed: January 20, 2004	:	
For: Method for Concurrently Employing Differing Materials To Form A Layer On a Substrate		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed November 6, 2006.

On May 3, 2007 applicant raised the issue of the final rejection being premature. Based on applicant's remarks and phone request on June 22, 2007, the Office is considering this to be a petition request to withdraw the finality of the office action mailed November 6, 2006.

DECISION

A review of the circumstances indicates that the final rejection of November 6, 2006 was not proper.

The petition for withdrawal of finality is **GRANTED.**

The finality of the office action on November 6, 2006 is withdrawn and the application has been forwarded to the examiner for an action on the merits.

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

Michael D. Carter
MOLECULAR IMPRINTS
PO BOX 81536
AUSTIN TX 78708-1536

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NOTARO & MICHALOS, P.C.
100 DUTCH HILL ROAD, SUITE 110
ORANGEBURG, NY 10962-2100

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OFFICE OF PETITIONS

In re Patent No. **7,419,836**
Issue Date: September 2, 2008
Application No. 10/760,829
Filed: January 20, 2004
Attorney Docket No. **J646-019 US**

DECISION ON PETITION
UNDER 37 CFR 1.182

This is a decision on the petition filed March 26, 2009, which is being treated as a request under 37 CFR 1.182, to change the address of inventor to -- **83346 Bergen/Bernhaupten (DE)** --.

The petition is **DISMISSED**.

The issue fee in this application was paid on July 29, 2008. Effective May 29, 2000, the Office changed the practice by clarifying that an amendment under 37 CFR 1.312 (after allowance) must be filed prior to or with payment of the issue fee, and eliminated 37 CFR 1.312(b). Since a change to the inventor's address is an amendment to the application, and amendments are not permitted after payment of the issue fee, a petition under 37 CFR 1.182 to change the inventor's address cannot be granted.

In view of the above, the petition under § 1.182 cannot be granted at this time to change the inventor's address.

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

Thurman K Page

Thurman K. Page
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41 ST FL.
NEW YORK NY 10036-2714

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MAR 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Gruenberg et al.	:	
Application No. 10/760,879	:	ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. D2000.0019	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 16, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a Declaration signed by the applicant, which includes a date-of-birth. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to the Technology Center Art Unit 2637 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 10/17/08

DATE : 10/17/08

TO SPE OF : ART UNIT 2882

SUBJECT : Request for Certificate of Correction for Appl. No.: 10760888 Patent No.: 7412028 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: _____

EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER
SPE Art Unit 2882

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOOD, HERRON & EVANS, LLP (NORDSON)
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/20/2010

Applicant	: Michael W. Harris	: DECISION ON REQUEST FOR
Patent Number	: 7578882	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/760,911	: 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 **1201** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DEC 0 3 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ROBERTS ABOKHAIR & MARDULA
SUITE 1000
11800 SUNRISE VALLEY DRIVE
RESTON VA 20191

In Re Application of :
Peter SOLIZ, et al. :
Application Serial No. 10/760,923 :
Filed: January 20, 2004 :
For: **SYSTEM AND METHOD FOR AUTOMATION OF MORPHOLOGICAL SEGMENTATION OF BIO-IMAGES** :

DECISION ON PETITION TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed January 20, 2004, requesting acceptance of color drawings and color photographs.

The petition requests that the color drawings/photographs, noted as figures 14, 15, 16, 21 and 24 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), three (3) sets of the color drawings in question, a black and white photocopy of said drawings, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

" The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

Petitioner has met the requirements set forth above. Accordingly, the petition is **Granted**.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Harry B. Wilfong JR.	: DECISION ON REQUEST FOR
Patent Number	: 7624881	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/760,925	: 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 **524** 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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 05/18/2010

Applicant : Harry B. Wilfong JR.
Patent Number : 7624881
Issue Date : 12/01/2009
Application No : 10/760,925
Filed : 01/20/2004

: 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 **563** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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WESTMAN CHAMPLIN (MICROSOFT CORPORATION)
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3244

In re Application of	:	OCT 31 2008
ATTIAS, HAGAI et al.	:	
Application No.: 10/760,937	:	DECISION ON
Filing or 371(c) Date: 01/20/2004	:	PETITION
Attorney Docket Number: M61.12-0588	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed September 23, 2008.

This is **DISMISSED**.

Any further petition 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 [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed May 20, 2008. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on September 12, 2008.

The Notice of Allowability

A review of the Notice of Allowability reveals that the Notice clearly required drawings. The Notice states: "CORRECTED DRAWINGS must be submitted."

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

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

This section of the statute is further clarified in Office rule, 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

This section explains that the reply must be both complete and proper as the condition of the application may require.

Here, Applicant filed a reply on October 31, 2005, to with – the issue fee; however, corrected drawings were also required. Applicant failed to timely file corrected drawings. The application was properly abandoned.

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 (703) 308-9250 ext.175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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WESTMAN CHAMPLIN (MICROSOFT CORPORATION)
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3244

COPY MAILED
DEC 0 8 2008

In re Application of	:	
Hagai Attias et al.	:	
Application No. 10/760,937	:	DECISION ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. M61.12-0588	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 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 and to submit corrected formal drawings on or before August 20, 2008, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed May 20, 2008. Accordingly, the date of abandonment of this application is August 21, 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 $1440, the publication fee of $300, and corrected formal drawings , (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor :	Attias et al.	
Appln. No.:	10/760,937	
Filed :	January 30, 2004	Group Art Unit: 2626
For :	METHOD OF SPEECH RECOGNITION USING MULTIMODAL VARIATIONAL INFERENCE WITH SWITCHING STATE SPACE MODELS	Examiner: Shaw
Docket No.:	M61.12-0588	

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

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

Electronically Filed
November 13, 2008

Sir:

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION AS BEING UNINTENTIONALLY ABANDONED UNDER 37 C.F.R. §1.137(b)

NOTE: A grantable petition requires the following items:

(1) Petition fee;

(2) Proposed response and/or issue fee; and

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

Please find enclosed:

1. Petition Fee

Other than small entity fee $1,620.00 (37 C.F.R. § 1.17(m)).

2. Proposed Response and/or Fee

A. The proposed response to the Notice of Allowance in the form of Corrected Drawings.

_ has been filed previously on _____

X is enclosed herewith.

B. The Issue fee of $1440.00 and Publication fee of $300.00

_X_ have been paid previously on June 11, 2008.

__ is enclosed herewith.

3. Verified Statement

On September 19, 2008, Applicants received a Notice of Abandonment mailed September 12, 2008. In the Notice of Abandonment, the application was said to be abandoned for Applicants' failure to timely file corrected drawings as required by the Notice of Allowance mailed May 20, 2008.

In the Notice of Allowance, box 5(b) was checked indicating that corrected drawings must be submitted and must include "changes required by the attached Examiner's Amendment/Comment or in the Office Action and Paper No./Mail Date ____." However, none of the Office Actions to date nor the Examiner's Amendment/Comment indicated any changes that needed to be made to the drawings. Further, in an Office Action dated July 26, 2007, the Examiner indicated that the drawings filed on January 20, 2004 were accepted.

Since the Examiner never indicated what, if any, changes need to be made to the drawings, it was impossible for Applicants to submit "corrected" drawings. Further, since the original drawings had been accepted, there appeared to be no need to resubmit the original drawings.

Since Applicants could not take corrective action to form "corrected" drawings without some indication from the Examiner of what corrections were needed, Applicants believed they were taking all actions possible to comply with the Notice of Allowance since the Notice of Allowance did not provide any means for the Applicants to actually provide "corrected" drawings.

In fact, with this submission, Applicants have resubmitted the original drawings. However, even now, Applicants are not sure that these drawings are acceptable since they do not include any corrections. Applicants have never intended to abandon this application and have tried to comply with the requests of the Patent and Trademark Office. However, the Patent and Trademark Office has not provided enough information to allow Applicants to comply.

Upon receiving the Notice of Abandonment, Applicants filed a Petition to Withdraw Holding of Abandonment on September 23, 2008. On November 3, 2008, Applicants received a decision on that petition indicating that the petition had been dismissed. On November 6, Applicants telephoned the Petition Officer to receive clarification of the petition and left a voice

message with Kay Pinkney. Applicants' phone call was never returned.

Based on the above, the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unintentional. Filed herewith is a copy of the drawings as originally filed and the petition fee set forth in § 1.17(m).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

If any extension of time for the accompanying paper is required, Applicant requests that this be considered a petition therefor.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

By: _____

Theodore M. Magee, Reg. No. 39,758
900 Second Avenue South, Suite 1400
Minneapolis, Minnesota 55402-3319
Phone: (612) 334-3222 Fax: (612) 334-3312

TMM/kjl

10/760937 Examiner: SHAH, PARAS GAU: 2626
Inventor: ATTIAS , HAGAI, et al Classification: 704/240.000
Status: 167 - ABANDONMENT FOR FAILURE TO CORRECT DRAWINGS/OATH/NONPUB REQUEST
Title: METHOD OF SPEECH RECOGNITION USING MULTIMODAL VARIATIONAL INFERENCE WITH SWITCHING ST...
Start Date: End Date:

bib_fee report (7 items, not sorted)

Acct Date	Seq. Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
11/14/2008	4640	4	1453	$1,620.00	11/13/2008	CC
06/12/2008	4349	4	1501	$1,440.00	06/11/2008	CC
06/12/2008	4350	4	1504	$300.00	06/11/2008	CC
10/29/2007	1630	4	1806	$180.00	10/26/2007	CC
12/27/2004	51	3	8007	$100.00	12/27/2004	CK
01/28/2004	74	1	8021	$40.00	01/20/2004	CK
01/23/2004	85	1	1001	$770.00	01/20/2004	CK

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OFFICE OF PETITIONS

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

In re Application of	:
John Elliason	:DECISION GRANTING FILING
Application No. 10/760,943	:DATE OF January 20, 2004
Filed: January 20, 2004	:
Attorney Docket No. 9359-2CT	:

This is a decision on the petition filed June 24, 2004, requesting that the above-identified application be accorded a filing date of January 20, 2004, rather than the presently accorded date of January 21, 2004.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on January 20, 2004 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of **Express Mail Label No. EV 381448656 US** showing a stamped date of January 20, 2004. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal." Additionally, the other available evidence, the Internet USPS Express Mail Tracking and Delivery Confirmation, discloses that the package was deposited on January 20, 2004.

In view of the USPS receipt stamp of January 20, 2004 appearing on the same Express Mail label number as shown on the transmittal for the instant application, it is concluded that the application was deposited as "Express Mail" with the USPS on January 20, 2004.

The petition is **granted**.

A copy of a Corrected Filing Receipt mailed July 7, 2004 bearing the Filing Date of January 20, 2004, accompanies this decision.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (703) 305-8859.

The application is being referred to Technology Center Art Unit 3676.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Copy of Corrected Filing Receipt mailed July 7, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/760,943	01/20/2004	3676	557	9359-2CT	7	19	7

CONFIRMATION NO. 1267

CORRECTED FILING RECEIPT

OC000000013168048

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

Date Mailed: 07/07/2004

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

Applicant(s)

John Elliason, Raleigh, NC;

Domestic Priority data as claimed by applicant

This application is a CON of 10/301,216 11/21/2002 PAT 6,701,760

Foreign Applications

If Required, Foreign Filing License Granted: 04/23/2004

Projected Publication Date: 08/05/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Remote key turning tool and method for using the same

Preliminary Class

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

GRANTED

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

WADDEY & PATTERSON
BANK OF AMERICA PLAZA
SUITE 2020
414 UNION STREET
NASHVILL ETN 37219

In re Application of	:	
Brian Bowman et al	:	
Application No. 10/760,947	:	ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. P2028/N9780	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

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

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

The 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 24, 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)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed.

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

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

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

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

PATENT
Attorney Docket No.: 826097600008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Donald A. Brown, et al.
Serial No.	:	not yet known 10/760983
Filed	:	Herewith 1-20-04
For	:	**REVERSIBLE ADHESIVE**
Art Unit	:	not yet known 1711
Examiner	:	not yet known

PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE UNDER 37 C.F.R. § 1.102(c)

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

Sir:

In accordance with 37 C.F.R. § 1.102(c) and MPEP § 708.02(IV), applicants hereby petition to make the above-referenced application special because Applicant Donald A. Brown is 83 years old. As required by MPEP § 708.02(IV), applicants enclose herewith Applicant Brown's Statement indicating his age.

Because this Petition is filed under 37 C.F.R §1.102(c), no fee is believed to be required. However, should a fee be necessary, the Commissioner is authorized to charge such fee to deposit account No. 50-1432, ref. 826097600008.

Respectfully submitted,

Michael R. Asam

Michael R. Asam Reg. No. 51,417
Jones Day
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
(216) 586-7770

PETITION GRANTED

Richard Crispino
Richard Crispino
Special Program Examiner
TC 1700 MAR 16 2005

CLI-1149560v1

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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HUSCH BLACKWELL SANDERS, LLP
HUSCH BLACKWELL SANDERS LLP WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

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MAR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Hollatz	:	
Application No. 10/761,012	:	DECISION
Filed: 20 January, 2004	:	
Attorney Docket No. 6065-90993	:	

This is a decision on the petition filed on 13 August, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to Allegations of
Unintentional Delay

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

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 24 September, 2007, with reply due absent extension of time on or before 24 December, 2007.

On 3 January, 2008, Petitioner filed, *inter alia*, a request and fee for extension of time, and a reply in the form of an amendment, however, the amendment was not entered, and on 18 January, 2008, the Office mailed a Notice of Non-Compliant Amendment, with a reply due on or before 18 February, 2008, and such extensions of time as might be available pursuant to the original non-final Office action.

The application went abandoned by operation of law after midnight 24 January, 2008.

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

On 13 August, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b) averring unintentional delay, a reply in the form of an amendment, and made the statement of unintentional delay. (A terminal disclaimer with fee filed at that time has not been entered/accepted. Should Petitioner determine that the terminal disclaimer was improvidently submitted, Petitioner may wish to request its withdrawal.)

The Office mailed the Notice of Abandonment on 25 August, 2008.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

---

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

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

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

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

As to Allegations of
Unintentional Delay

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

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

The instant application is released to the Technology Center/AU 2154 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent Department
Bayer Polymers LLC
100 Bayer Road
Pittsburgh PA 15205-9741

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AUG 2 0 2004
OFFICE OF PETITIONS

In re Application of Lockhart, Dvorchak & Gindin Application No.: 10/761,015 Filed: January 20, 2004 Attorney Docket No.: PO-7945C/ MD-02-189C For: UV-CURABLE WATERBORNE POLYURETHANE DISPERSIONS FOR SOFT TOUCH COATINGS	:	DECISION NOTING JOINDER OF INVENTOR & PETITION UNDER 37 CFR 1.47(A) DISMISSED AS MOOT

The above-identified application was filed on January 20, 2004 without an executed declaration. Accordingly, on April 23, 2004, the Office of Initial Patent Examination mailed a "Notice of Missing Parts of Nonprovisional Application," requesting that petitioners submit an executed declaration and a surcharge for the late filing of an executed declaration within an extendable two month period. On May 7, 2004 (certificate of mailing date May 5, 2004), petitioners filed a petition under 37 CFR 1.47(a) because one inventor, Michael J. Dvorchak, was unavailable to sign the declaration. On May 19, 2004 (certificate of mailing date May 17, 2004), petitioners submitted another declaration signed by Mr. Dvorchak that is in compliance with 37 CFR 1.63.

In view of the joinder of the previously unavailable inventor, consideration under 37 CFR 1.47(a) is moot and therefore, no petition fee has been charged. This application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be forwarded to Technology 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

Commissioner for Patents
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DEERE & COMPANY
PATENT DEPARTMENT
ONE JOHN DEERE PLACE
MOLINE, IL 61265-8098

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OFFICE OF PETITIONS

In re Application of	:	
Rickert., Clemens	:	
Application No. 10/761,035	:	ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. 09225-US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 17, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed August 26, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 27, 2004. A Notice of Abandonment was mailed April 1, 2005.

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

This matter is being referred to Technology Center 3600 for further examination on the merits.

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

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

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5-1-06

In re Application of	:	
BUCCHEIT et al.	:	PETITION for ACCEPTANCE of
Serial No. 10/761,077	:	COLOR DRAWINGS UNDER
Filed: January 20, 2004	:	37 C.F.R. 1.84
For: CORROSION RESISTANT COATING	:	
WITH SELF-HEALING	:	
CHARACTERISTICS	:	

Color photographs and color drawings are not accepted unless a petition filed under 37 CFR 1.84(a)(2) is granted. Any such petition must be accompanied by:

1. The appropriate fee set forth in 37 CFR 1.17(h);
2. Three sets of color drawings or color photographs, as appropriate and, unless already present;
3. An amendment to include the following language as the first paragraph of the brief description of the drawings section of the specification:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings and black and white photographs have been satisfied. See 37 CFR 1.84(b)(2).

The petition filed December 16, 2005 has been reviewed. As all three of the above requirements have been met, the petition is **GRANTED**.

J.A. Lorengo, SPE, AU 1755
Technology Center 1700
Chemical and Materials Engineering

STANDLEY LAW GROUP LLP
495 Metro Place South, Suite 210
Dublin, OH 43017

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500 WEST MADISON STREET, SUITE 3800
CHICAGO, IL 60661

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OFFICE OF PETITIONS

In re Application of	:	
William L. Grilliot et al	:	
Application No. 10/761,097	:	DECISION GRANTING PETITION
Filed: January 20, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Mr333rP0851US	:	

This is a decision on the petition, filed November 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3765 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).*

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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

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OFFICE OF PETITIONS

In re Application of :
Martin Zimmermann, et al. :
Application No. 10/761,117 : ON PETITION
Filed: January 20, 2004 :
Attorney Docket No. 588.1008 :

This is a decision on the petition, filed May 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 25, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3681 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : May 11, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Martin Zimmermann, et al
Application No. : 10/761,117
Filed : January 20, 2004

The above-identified application has been assigned Patent No. 6,899,654 and an issue date of May 31, 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 May 31, 2005:

> "All reference to Patent No. 6,899,654 to MARTIN ZIMMERMANN, ET AL of GERMANY for SYSTEM FOR CONTROLLING A TRANSMISSION COMPONENT IN A VEHICLE TAKING INTO CONSIDERATION A POSSIBLE FLUID LOSS appearing in the Official Gazette of May 31, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/2/2005

TO SPE OF : ART UNIT 2600(2667)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,928,064

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 3-922
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.

Okay to replace drawing figure 3 as requested in C of C?

Ernest C. White, LIE305-8339
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:

LYNN FEILD
SUPERVISORY PATENT EXAMINER
SPE

2616
Art Unit

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KLAUBER & JACKSON
4th Fl
411 Hackensack Avenue
Hackensack NJ 07601

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JAN 28 2010

OFFICE OF PETITIONS

In re Patent No. 7,476,511	:	
Issue Date: October 23, 2007	:	
Application No. 10/761,150	:	ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. 1379-1-022	:	

This is a decision on the petition filed March 16, 2009, 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 requests to correct the assignee's name by way of a certificate of correction in the name of "Consejo Superior De Investigaciones Cientificas".

Petitioner has stated in the instant petition that the mistake is the Office's fault. However, the assignment data printed on the patent is based solely on the information so supplied on the Issue Fee Transmittal form (PTOL-85(b) item 3. ***See MPEP § 307***. In this instance the assignee data on the Issue Fee Transmittal form (PTOL-85(b)) differs from that in the assignment as recorded on June 23, 2004, Reel 015491 and Frame 0893. As the assignee information on the patent corresponds to that on the Issue Fee Transmittal form (PTOL-85(b)), the error is not the Office fault, as alleged in the instant petition. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

Petitioner should note in order to have the desired assignee data included by way of a certificate of correction, the procedure set forth in 37 CFR 3.81(b) should be followed.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected

> to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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KEY SAFETY SYSTEMS, INC.
PATENT DEPARTMENT
7000 NINETEEN MILE ROAD
STERLING HEIGHTS MI 48314

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JUL 18 2008

In re Application of	:	
David R. ARNOLD, et al	:	
Application No. 10/761,162	:	DECISION ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. 1566	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before March 21, 2008. As required by the Notice of Allowance and Fee(s) Due, mailed December 21, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 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 payment of the Issue Fee of $1440 and the Publication Fee of $300 ; (2) the petition fee of $1540; and (3) the required statement of unintentional delay.

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

The application is being referred to the Office of Data Management for processing.

Thurman K Page

Thurman Page
Petitions Examiner
Office of Petitions

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CRYSTAL CITY STATION
ARLINGTON VA 22215

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OFFICE OF PETITIONS

In re Application of

Bruce Babashan :

Application No. 10/761,218

: DECISION ON PETITION

Filed: January 22, 2004

:

Attorney Docket No. 21782.00

This is a decision on the petition under 37 CFR 1.137(b), filed, February 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 1, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on March 2, 2006. A Notice of Abandonment was mailed September 27, 2006.

The amendment filed February 20, 2007, is noted.

The application is being forwarded to Technology Center 3700, GAU 3762 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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VOLENTINE FRANCOS & WHITT, PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

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OCT 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Fukunaga :
Filed: January 22, 2004 : ON PETITION
Application No. 10/761,223 :
Atty. Dkt. No.: OKI.616 :

This decision is in response to the "PETITION IN RESPONSE TO NOTICE OF INCOMPLETE PROVISIONAL APPLICATION" filed September 29, 2004 in response to the "Notice of Incomplete Nonprovisional Application ("Notice") mailed August 4, 2004 to accord the above-identified application a filing date of January 22, 2004.

The application was filed January 22, 2004. The Notice mailed indicated that the application had not been accorded a filing date because the application appeared to have been deposited without drawings as required by 35 USC 113.

In response, the present petition was filed wherein petitioner argues that the application as deposited included five sheets of drawings. Petitioner has included as proof of mailing and proof of receipt of five sheets of drawings a return postcard date stamped by the Office on January 22, 2004. A copy of the five sheets of drawings purportedly filed with the application on January 22, 2004 was also supplied.

The original drawing sheets submitted with the application papers have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of January 22, 2004 is GRANTED.

Since the original drawing sheet cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter. A refund to deposit account No. 50-0238 has been requested from the Finance Office, Refund Section.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of January 22, 2004.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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BLACKWELL SANDERS PEPER MARTIN
2300 MAIN STREET, SUITE 1000
KANSAS CITY, MO 64108

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JUL 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Pryce, Dennis	:	DECISION ON PETITION
Application No. 10/761,268	:	TO WITHDRAW
Filed: January 21, 2004	:	FROM RECORD
Attorney Docket No. 16573-10001	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 30, 2006, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **APPROVED**.

A review of the file record indicates that the attorneys associated with Customer Number 27526: (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

All future correspondence will be directed to the first named inventor Dennis Pryce at the address indicated below.

There is an outstanding Office action mailed March 28, 2006 that requires a reply from the applicant.

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

David Bucci
Petitions Examiner
Office of Petitions

cc:

MR. DENNIS PRYCE
333 WEST HUBBARD STREET
CHICAGO, IL 60610

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C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of

Donahue, et al. :

Application No. 10/761,278

: DECISION ON PETITION

Filed: January 22, 2004

:

Attorney Docket No. IVGN 135.2 CON

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed May 9, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was not received within the allowable period and the application became abandoned on August 10, 2006.

The continuing application 11/608,192, filed December 7, 2006, is noted.

The request for an extension of time within the third month filed December 7, 2006, is noted but cannot be granted because it was made outside the maximum statutory period for reply. It is further noted that an extension of time is not necessary in this instance because the application was in an abandoned status at the time the request was made. Deposit account 50-3994 will be refunded $1020.00, accordingly.

The subject application is revived for continuity purposes and is again abandoned in favor of application 11/608,192.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 23, 2006

TO SPE OF : ART UNIT 2852 **(S.P.E. David Gray)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/761,316 Patent No.: 6993273

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**.

Will drawing Fig. changes cause problem with reflecting the spec.?

Stan 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: _____

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER

SPE

2852
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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MICROSEMI CORP - AMSG LTD.
C/O LANDONIP, INC
1700 DIAGONAL ROAD, SUITE 450
ALEXANDRIA VA 22202-3709

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MAR 25 2008
OFFICE OF PETITIONS

In re Application of :
Peker, et al. : DECISION ON PETITION
Application No. 10/761,327 :
Filed: January 22, 2004 :
Atty. Dkt. No.: PDS-015 :

This is a decision on the petition under 37 CFR 1.137(a), filed January 28, 2008.

The petition is **GRANTED**.

This application became abandoned October 13, 2007 for failure to timely reply to the non-final Office action mailed July 12, 2007. The non-final Office action set a three (3) month shortened statutory period of time for reply. No petition for extension of time was timely submitted. This decision precedes Notice of Abandonment.

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 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).

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioners have supplied the required reply and the required petition fee, and have presented a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being forwarded to Technology Center 2800 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE 3/24/09

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/761327 Patent No.: 7492059B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: No new matter was introduced.

SPE _____ Art Unit _____

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-8-05

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 10781439 6850345

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:

Applicant is Correct. Examiner's amendment to the claims (11/29/05) was not considered when the claims were printed. 10/17/05

THONG NGUYEN
PRIMARY EXAMINER
GROUP 2800

SPE **Art Unit** 2872

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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KRAMER & AMADO, P.C.
SUITE 240
1725 DUKE STREET
ALEXANDRIA VA 22314

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APR 20 2007

OFFICE OF PETITIONS

In re Application of	:
Alex L. Chan et al	:
Application No. 10/761,343	: DECISION GRANTING PETITION
Filed: January 22, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. ALC 3113	:

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Response/Election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of March 27, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2841.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KRAMER & AMADO, P.C.
Suite 240
1725 Duke Street
Alexandria, VA. 22314

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OFFICE OF PETITIONS

In re Application of	:	
Alex CHAN et al	:	
Application No. 10/761,343	:	ON PETITION
Filed: January 22, 2004	:	
Attorney Docket No. ALC 3113	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 5, 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.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of September 18, 2009 by the Board of Patent Appeals and Interferences (Board). Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 19, 2009. *See* MPEP 1214.06.

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)(II)(C) and (D). The instant petition lacks item(s) item (1).

The amendment submitted November 5, 2009, along with a petition to revive under 37 CFR 1.137(b) is not a proper response to a Decision by Board of Patent Appeals and Interferences, where no claims were allowed, and no new rejection given by the Board. A proper response to the decision would require the filing of a continuing application, a request for reconsideration or the filing of a Request for Continued Examination (RCE).

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
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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KRAMER & AMADO, PC
SUITE 240
1725 DUKE STREET
ALEXANDRIA, VA. 22314

MAILED

JAN 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Alex CHAN et al	:	
Application No. 10/761,343	:	ON PETITION
Filed: January 22, 2004	:	
Attorney Docket No. ALC 3113	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114; (2) the petition fee of $1620.00; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

The application file is being forwarded to Technology Center Art Unit 2841.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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JUN 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Craig Ullman	:	
Application No. 10/761,351	:	DECISION ON PETITION
Filed: January 22, 2004	:	TO WITHDRAW
Attorney Docket No. 559442600207	:	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 29, 2006.

The request is **NOT APPROVED**.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARC KAUFMAN, ESQ.
NIXON PEABODY, LLP
401 9TH STREET NW
SUITE 900
WASHINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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JUN 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Craig Ullman	:	
Application No. 10/761,351	:	DECISION ON PETITION
Filed: January 22, 2004	:	TO WITHDRAW
Attorney Docket No. 559442600207	:	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 January 17, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Adam Keser 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARC KAUFMAN, ESQ.
NIXON PEABODY, LLP
401 9TH STREET NW
SUITE 900
WASINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON, DC 20005

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APR 7 2006
OFFICE OF PETITIONS

In re Application of William R. Bandy et al Application No. 10/761,362 Filed: January 22, 2004 Attorney Docket No. 1689.0360001	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed April 6, 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 16, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2612 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).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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STERNE KESSLSER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, NW
WASHINGTON, DC 20005

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AUG 0 7 2006
OFFICE OF PETITIONS

In re Application of	:
William R. Bandy et al	:
Application No. 10/761,362	: DECISION GRANTING PETITION
Filed: January 22, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1689.0360001	:

This is a decision on the petition, filed August 4, 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 15, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2612 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).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISHER, CHRISTEN & SABOL
1725 K STREET, N.W.
SUITE 1108
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of :
Kazuhiko Ohnishi et al. :
Application No. 10/761,400 : ON PETITION
Filed: January 22, 2004 :
Attorney Docket No. KATA-188 :

This is a decision on the petition filed October 3, 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 for failure to file a timely response to a Restriction Requirement mailed August 29, 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 April 4, 2006.

The petition fee in the amount of $1500.00 has been applied to the finance records for the instant patent application.

The response to the Restriction Requirement filed October 3, 2006 will be referred to Technology Center 1711 for further processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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Paper No.

McGuireWoods LLP
1750 Tysons Blvd, Suite 1800
McLean, VA 22102

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NOV 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Jang et al. :
Application No. 10/761,414 :
Filed: January 22, 2004 : ON PETITION
Attorney Docket Number: 6192.0166.C1 :

This is a decision on the Petition Under 37 CFR 1.78, filed July 8, 2004. which is properly 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, number 09/709,312, filed November 13, 2000, and now U.S. Patent No. 6,683,666.

This Petition is hereby **dismissed as moot**.

In the instant case, the Office recognized the claim for benefit of prior-filed nonprovisional application, number 09/709,312, filed November 13, 2000, and now U.S. Patent No. 6,683,666, said claim appearing in the Utility Patent Application Transmittal Letter, filed with the instant application on January 22, 2004. In view thereof, a petition under 37 CFR 1.78(a)(3) is unnecessary.

Accordingly, the $1330.00 petition fee will be credited to Deposit Account number 23-1951 as authorized via telephone with the attorney filing the instant petition.

An electronic message will be forwarded to Technology Center Art Unit 2871 regarding this Decision, and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Brian Hearn, for

Charles A. Pearson
Director
Office of Petitions

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LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

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APR 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Timothy P. Weihs, et al. :
Application No. 10/761,439 : ON PETITION
Filed: January 21, 2004 :
Attorney Docket No. 13631-44 :

This is a decision on the petition, filed April 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 24, 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 1775 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : April 4, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Timothy P. Weihs, et al
Application No. : 10/761,439
Filed : January 21, 2004

The above-identified application has been assigned Patent No. 6,875,521 and an issue date of April 5, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of April 5, 2005:

> "All reference to Patent No. 6,875,521 to TIMOTHY P. WEIHS, ET AL of MARYLAND for REACTIVE MULTILAYER FOIL WITH CONDUCTIVE AND NONCONDUCTIVE FINAL PRODUCTS appearing in the Official Gazette of April 5, 2005, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-44I (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9I0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

SPE: U. Robert

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/3/07

TO SPE OF : ART UNIT 3733

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/761,491 Patent No.: 7077856

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: _____

SPE — Art Unit 3733

EDUARDO C. ROBERT
SUPERVISORY PATENT EXAMINER

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MAY 28 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN, OK 73536-0440

In re application of	:	**DECISION ON PETITION**
Jiten Chatterji	:	**TO MAKE SPECIAL**
Application No. 10/761,538	:	**(APPLICANT'S AGE)**
Filed: January 21, 2004	:	

For: METHODS, COMPOSITIONS AND BIODEGRADABLE FLUID LOSS CONTROL ADDITIVES FOR CEMENTING SUBTERRANEAN ZONES

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. Chatterji indicating that he is at least 65 years of age.

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-3868

KJD/slb: 05/26/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 5/23/05

MEB
Paper Number:

In re application of
Wyatt et al.
Serial No. 10/761,549
Filed: January 21, 2004
For: Diisopropylbenzene Containing Solvent and Method of Developing Flexographic Printing Plates

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW ABANDONMENT, filed March 10, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of February 25, 2005, for failure to timely reply to the Election/Restriction Requirement of July 15, 2004 be withdrawn. The petitioner asserts that the response was timely filed by mail on August 13, 2004.

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 a Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed.

As set forth in MPEP 711.03(c) Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed:
37 CFR 1.10(c) through 1.10(e) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), or (e) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date. Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held

abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt. Where a certificate of mailing or transmission under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

The petitioner's showing that the response was submitted by mail on August 13, 2004 is sufficient. The application will be forwarded to for processing and consideration of the papers filed March 10, 2005 (Certificate of Mailing date of August 13, 2004) and a copy of which is provided as an attachment to the instant petition.

The Petition is **Granted**.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

THOMAS C. SAITTA
ROGERS TOWERS, P.A.
1301 RIVERPLACE BLVD.
SUITE 1500
JACKSONVILLE, FL 32207

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HOFFMAN WARNICK & D'ALESSANDRO LLC
75 STATE STREET, 14TH FLOOR
ALBANY, NY 12207

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OFFICE OF PETITIONS

In re Application of :
Aston G. Farquharson et al :
Application No. 10/761,551 :
Filed: January 21, 2004 :
Attorney Docket No. END920030162US1

ON PETITION

This is a decision on the petition, filed January 29, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 10, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2134 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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Casimir Jones, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON, WI 53562

Mail Date: 04/21/2010

Applicant	: D. James Surmeier	: DECISION ON REQUEST FOR
Patent Number	: 7629323	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/761,557	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2004	: 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.

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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	: Nien-Hua Pai	: DECISION ON REQUEST FOR
Patent Number	: 7605952	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/761,574	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1255** 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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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 05/18/2010

Applicant : Nien-Hua Pai
Patent Number : 7605952
Issue Date : 10/20/2009
Application No : 10/761,574
Filed : 01/21/2004

: 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 **1287** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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APR 15 2005
Technology Center 2100

Law Office of David H. Judson
15950 Dallas Parkway
Suite 225
Dallas TX 75248

In re Application of: Alexander Falk, et al.
Application No. 10/761,578
Filed: January 21, 2004
For: METHOD AND SYSTEM FOR AUTOMATING CREATION OF MULTIPLE STYLESHEET FORMATS USING AN ...

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 December 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 13 December 2004 fails to adequately meet requirement (e) of the criteria set forth above. There is no detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). Rather, the identical statement, that none of the references describe or suggest the entirety of claim 1, is presented for each of the eight references purported to be "most closely related". Petitioner should ensure that the above discussion is directed to how the language 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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Law Office of David H. Judson
15950 Dallas Parkway
SUITE 225
Dallas, TX 75248

In re Application of: Falk, et al.
Application No. 10/761,578
Filed: 21 January 2004

For: METHOD AND SYSTEM FOR AUTOMATING CREATION OF MULTIPLE STYLESHEET FORMATS USING AN INTEGRATED VISUAL DESIGN ENVIRONMENT

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 15 June 2005 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 13 December 2004, and dismissed in the decision mailed 15 April 2005.

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

GO

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HOUSTON, TX 77252-2463

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
Larry Wayne Payne :
Application No. 10/761,591 :
Filed: January 21, 2004 :
Attorney Docket No. TH2442 (US) :

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

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 18, 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 **DISMISSED AS MOOT**.

Along with the instant petition under 37 CFR § 1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the provisional prior-filed application. However, please note, the amendment states the above-identified application claims benefit of provisional Application No. 60/445,528, but the petition makes reference to Application No. 10/431,189.

The instant pending nonprovisional application was filed on January 21, 2004, and was pending at the time of filing of the instant petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

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

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

In view of the above, the $1500.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

The application is being forwarded to Technology Center AU 1621 for appropriate action on the amendment submitted January 18, 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. 60/445,528.

Any inquiries concerning this decision may be directed to Petitions Attorney Edward Tannouse at (571) 272-3228. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

[1] *Note* MPEP 201.11 (III)(D), pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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Approved for use through 12/31/2006. OMB 0651-0035
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Application Number	10/761594
Filing Date	1/21/2004
First Named Inventor	Peter HANOSEK
Art Unit	
Examiner Name	
Attorney Docket Number	13743

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

Approved 10/2/06
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

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

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

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

The reasons for this request are: As of 20 July 2006, I will no longer be associated with the firm Orum & Roth LLC. Partner Keith H. Orum, Registration No. 33985, maintains responsibility for the case.

CORRESPONDENCE ADDRESS

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

[ ] The address associated with Customer Number: [ ]

OR

[ ] Firm or Individual Name	Orum & Roth LLC				
Address	53 W Jackson Blvd Ste 1616				
City	Chicago	State	IL	Zip	60604
Country	US				
Telephone	312 922 6262	Email	email@orumroth.com		
Signature	Catherine L. Gemrich				
Name	Catherine L. Gemrich	Registration No.	50473		
Date	16 July 2006	Telephone No.	312 922 6262		

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Joseph A. Zupanick	:	
Application No. 10/761,629	:	ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. 067083.0298	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 3, 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 3673 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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OFFICE OF PETITIONS

PHARMACIA & UPJOHN
7000 PORTAGE ROAD
KZO-300-104
KALAMAZOO MI 49001

In re Application of	:	
Bernard Frank Bishop	:	
Application No. 10/761,636	:	ON PETITION
Filed: January 21, 2004	:	
Attorney Docket No. PC22004B	:	

This is a decision on the petition, filed September 13, 2006, and supplemented on September 15, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 7, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1623 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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NOV 13 2008

In re Patent No. 7,386,311	:	
Issue Date: June 10, 2008	:	LETTER REGARDING
Soga et al.	:	PATENT TERM ADJUSTMENT
Application No. 10/761,663	:	and
Filed: January 20, 2004	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 9683/164	:	CERTIFICATE OF CORRECTION

This is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed July 18, 2008. Pursuant to their duty of candor and good faith to the Office, patentees disclose that the determination of patent term adjustment may limit the term of this patent by too few days.

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-nine **(549)** days.

On June 10, 2008, the application matured into U.S. Patent No. 7,386,311, with a revised patent term adjustment of 594 days. Patentees state no basis for their disclosure that the patent term adjustment may be limited by too few days.

Nonetheless, a review of the record confirms that an additional period of reduction should have been entered. In response to the final Office action mailed August 24, 2007, patentees did not file a response in compliance with §1.113(c) until January 8, 2008, three months and 45 days later. As such, a period of reduction of 45 days is being entered pursuant to 37 C.F.R. §1.704(b).

In view thereof, the patent should have issued with a revised patent term adjustment of five hundred forty-nine (549) 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-nine **(549)** 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 : 7,386,311 B2

DATED : **June 10, 2008** **DRAFT**

INVENTOR(S) : Soga 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 594 days

Delete the phrase "by 594 days" and insert – by 549 days--

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WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

Mail Date: 07/08/2010

Applicant	: Kenneth Dong	: DECISION ON REQUEST FOR
Patent Number	: 7643671	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/761,667	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **844** 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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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of	:	
Manabu Hara	:	
Application No. 10/761,683	:	DECISION GRANTING PETITION
Filed: January 21, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SONYJP 3.0-355	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 18, 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 June 9, 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 2622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE, WI 53202-4497

Mail Date: 04/23/2010

Applicant	: Mark E. Cook	: DECISION ON REQUEST FOR
Patent Number	: 7579002	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/761,715	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **757** 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.
POST OFFICE BOX 1208
SEATTLE, WA. 98111-1208

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OFFICE OF PETITIONS

In re Application of
Yukun Sun et al
Appl. No.: 10/761,717
Filed: January 20, 2004
Attorney Docket No. 57783.8004.US00

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed June 29, 2007, to expunge information from the above identified application.

The petition is DISMISSED.

On January 31, 2007, the Office received two complete responses to the Office Action mailed July 31, 2006. Petitioner now requests that the first response filed January 31, 2007, be expunged from the record. Petitioner states that this amendment, submitted by Wong, Cabello, Lutsch, Rutherford & Brucculeri, LLP on January 31, 2007, was submitted due to an inadvertent error and was redundant and unnecessary. Petitioner indicates that removal of the first response should not affect further prosecution of the application, and furthermore the second response submitted by Perkins Coie, LLP, constitutes a complete response to the Office Action mailed July 31, 2006.

The petition does not contain a clear statement that the information requested to be expunged is either: (1) a trade secret, proprietary, and/or subject to a protective order; or (2) was unintentionally submitted and 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.

As explained in MPEP 724.05 a petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) The Office can effect such return prior to the issuance of any patent on the application in issue;
(B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and

(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

The petition is deficient with regard to (B), and (C). There is no statement in the petition that the information in the first response would cause irreparable harm to the party who submitted the information.

The statement that the first response was unintentional is insufficient. The Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicants, and that applicant is bound by the consequences of those actions or inactions. These actions or inactions of the attorney/agent must be imputed to the petitioners, who hired the attorney/agent to represent them, Link v. Wabash Railroad Co., 370 U.S. 626, 633-634, 82 S.Ct. 1386, 1390-91 (1962).

The information has been made public. Pending applications that have not been published are generally preserved in confidence. See 37 CFR 1.22(a). A review of the Office records indicates that on July 29, 2004, the application published as US200401046985A1. 37 CFR 1.14(iii) states:

> (iii) Published pending applications. A copy of the application-as-filed, the file contents of the application, or a specific document in the file of a pending application that has been published as a patent application publication may be provided to any person upon request, and payment of the appropriate fee set forth in § 1.19(b).

Since the response has been made available to the public, the information submitted, for the above given reasons cannot be expunged. The first response filed January 31, 2007, submitted by Wong, Cabello, Lutsch, Rutherford, & Brucculeri, LLP, will be considered to be applicant's proper response to the Office Action mailed July 31, 2006.

The Extension of Time fee of $510.00 will be refunded to petitioner's Deposit Account No. 50-2586.

Any renewed petition may 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: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to Thurman K. Page at (571) 272-0602.

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

The application will be forwarded to Technology Center 1600, for actions consistent with this decision.

Anthony Knight
Supervisor
Office of Petitions

I hereby certify that this correspondence is being deposited with the United States Patent Office via EFS-Web Electronic Filing, on:

Date: June 29, 2007 By: /Rena Iov/
Rena Iov

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

in re Application of: Yukun Sun	Examiner: Liu, Samuel W.
Application No.: 10/761,717	Art Unit: 1656
Filed: January 20, 2004	Conf. No: 3780
For: **METHOD OF PRODUCING INSULINOTROPIC GLP-1 (7-36) POLYPEPTIDE AND/OR GLP-1 ANALOGS**	

PETITION FOR EXPUNGEMENT OF INFORMATION

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

Sir:

Applicants inadvertently filed two responses to the Office Action mailed on July 31, 2006. The first response was submitted by Wong, Cabello, Lutsch, Rutherford & Brucculeri, LLP on January 31, 2007, and the second response was submitted by Perkins Coie LLP. The duplicate response was submitted due to inadvertent error and was redundant and unnecessary. Pursuant to CFR §1.59(b), applicants respectfully request that the first response filed on January 31, 2007 be expunged. Removal of the first response should not affect further prosecution of the application. The second response constitutes a complete reply to the Office Action mailed on July 31, 2006.

Adjustment date: 03/31/2008 CKHLOK
02/06/2007 WASFAW1 00000031 502586 10761717
01 FC:2253 510.00 CR

Applicants further authorize the commissioner to charge $200 from Deposit Account No. 50-2586 as the expungement fee required under CFR §1.17(g).

Respectfully submitted,

PERKINS COIE LLP

Dated: June 29, 2007

/Zhaohui Wang, Reg. No. 54,674/
Zhaohui Wang
Reg. No. 54,674

Correspondence Address:
Customer No. 34055
Perkins Coie LLP
Patent – LA
P.O. Box 1208
Seattle, WA 98111-1208
Phone: (310) 788-9900
Fax: (206) 332-7198

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 03/27/08

2 Serial/Patent # 10/761,717

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time		02/05/07	$ 510.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 510.00

8 TO BE REFUNDED BY:

X	Treasury Check
	Credit Deposit A/C #:

9 5 0 -- 2 5 8 6

10 REASON:

	Overpayment
X	Duplicate Payment
X	No Fee Due (Explanation):

Duplicate fee paid

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Thurman K. Page TITLE: Petitions Examiner

SIGNATURE: PHONE: 272-0602

OFFICE: Office of Petitions

****

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APPROVED: CKhoK DATE: 3/31/08

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FORM PTO 1577
(01/90)

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PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE WA 98111-1208

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OFFICE OF PETITIONS

In re Patent No. 7,544,512
Issued: June 9, 2009
Application No. 10/761,717
Filed: January 20, 2004
Attorney Docket No. 57783.8004.US00

: DECISION ON APPLICATION
:FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. §1.705(D)" filed July 28, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred forty-six (246) days to five hundred sixty-three (563) days. This request is based in part on the Office taking in excess of three years to issue the patent.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

For the reasons stated herein, no correction to the patent term adjustment is required.

Patentees acknowledge the failure of the Office to mail a response (non-Final Office Action in this matter) within four months of the applicant's response filed January 17, 2006. However, patentees argue that the response was filed January 17, 2006 and not January 7, 2006 as indicated by the Office. Thus the Office has incorrectly accorded 85 days for Office delay to the filing of the non-Final Office Action on July 30, 2006. Patentees assert that the correct number of days of Office delay is 75 in accordance with 37 CFR 1.702(a)(2).

85 days accorded for Office delay has been found to be incorrect. A review of the application file reveals that, as stated by applicants, their response to the Restriction Requirement mailed November 17, 2005 is of record in the application with a date of receipt by the Office of January 17, 2006 and that four months from that date would have been May 17, 2006. Thus, the Office delay from May 17, 2006 until the mailing of the non-Final Action on July 30, 2006 is seventy-five (75) days. The period of Office delay of 85 days has been removed and a period of Office delay of 75 days has been entered.

On June 9, 2009, the above-identified application matured into US Patent No. 7,544,512 with a patent term adjustment of 246 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).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are "entitled to a total patent term adjustment of 563 days, which includes 871 days of patent term adjustment due to exceeding three year pendency and 317 days due to USPTO delay in prosecution."

The 871-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on January 20, 2004, and the patent having been issued on June 9, 2009, three years and 871 days later. Patentees assert that in addition to this 871-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 317 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132, pursuant to 37 CFR 1.702(a)(1) and (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, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 625 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (871 days) and the period of Examination Delay (317 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1188 days, which is the sum of the period of Three Year Delay (871 days) and the period of Examination Delay (317 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 563 days (871 + 317 reduced by 0 overlap – 625 (applicant delay)).

The Office agrees that as of the issuance of the patent on June 9, 2009, the application was pending three years and 871 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 317 days is correct. At issue is whether patentees should accrue 871 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 317 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 871 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

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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).

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 20, 2004, to the date the patent issued on June 9, 2009. Prior to the issuance of the patent, 327 days (242 + 85 before correction) of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 871 days for Office delay in issuing the patent overlap with the 327 days of Office delay. The Office did not delay 327 days and then an additional 871 days. Entry of both periods is not warranted. Thus, 871 days is determined to be the actual number of days that the issuance of the patent was delayed.

Accordingly, at issuance, the Office entered 544 additional days of patent term adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b) for a total Office delay of 871 days (327 + 544).

Given the correction of the Office delay from 85 days to 75 days, the Office delay of record during the pendency of the application is 317 days. As such, 554 days, instead of 544 days, is being entered for Office delay pursuant to 37 CFR § 1.703(b) for a total Office delay of 871 days (317 + 554)

In view thereof, the revised patent term adjustment remains 246 days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

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
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Alexandria, Virginia 22313-1450
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PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE, WA 98111-1208

Mail Date: 04/20/2010

Applicant	: Yukun Sun	: DECISION ON REQUEST FOR
Patent Number	: 7544512	: RECALCULATION of PATENT
Issue Date	: 06/09/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/761,717	: 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 **573** 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/761,718	01/20/2004	2643	1132	199-0227US	7	22	3

CONFIRMATION NO. 3719

CORRECTED FILING RECEIPT

OC000000012798633

29855
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, P.C.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

Date Mailed: 05/27/2004

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)

Noam Eshkoli, Tel Mond, ISRAEL;
Oded Gants, Doar Na Lev Hashomron, ISRAEL;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/24/2004

Projected Publication Date: 07/21/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for mixing compressed video

Preliminary Class

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

GRANTED

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

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

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

NOT GRANTED

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

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DEC 0 1 2005

MEHRMAN LAW OFFICE, PC
ONE PREMIER PLAZA
5605 GLENRIDGE DRIVE, STE 795 B
ATLANTA GA 30342

In re Application of	:	
Yury Podrazhansky	:	
Serial No.: 10/761,726	:	DECISION ON PETITION
Filed: January 21, 2004	:	
For: Method and Apparatus for Improving	:	
Local Blood and Lymph Circulation	:	

This is in response to applicants' petition filed September 2, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt

Frederick R. Schmidt, Director
Technology Center 3700

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

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OCT 22 2004

OFFICE OF PETITIONS

In re Application of	:	
Stewart et al.	:	
Application No. 10/761,734	:	DECISION ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. 1981/688	:	

This is a decision on the petition under 37 CFR 1.181, filed July 12, 2004, requesting that USPTO determine that the files contained on the compact discs filed with the application were received by the USPTO.

The application was filed on January 20, 2004 with 67 pages of specification, 27 sheets of drawings, an executed declaration, two compact discs containing a Computer Listing Appendix, and a preliminary amendment. However, on May 7, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)in a Nonprovisional Application," stating that the application had been accorded a filing date of January 20, 2004, but informing applicants that the Office was unable to read all the files on the compact discs. The Office required new duplicate set of discs because the discs included bad media, viruses, and unknown or corrupted filed format.

In response, on July 12, 2004, applicants filed the present petition and authorized the payment of the petition fee. Applicants explained that a review of their file copy of the compact discs disclosed that the files contained two files in a format other than the ASCII format required by 37 CFR 1.52(e)(i)(3). The file names were motx.pjt and wirbd3_5p.pjt; however, the remaining files on the copy of the disc were in ASCII format. To correct the deficiency, applicants submitted duplicate sets of compact discs. Applicants state that the replacement discs contain only files in ASCII format and that the non-ASCII files have been removed. Applicants assert that the replacement discs include the ASCII files that were filed with the application.

Applicants seek to file a preliminary amendment to correct the reference to the Computer Listing Appendix included in the specification of the application. The preliminary amendment would amend the specification by deleting the reference to the non-ASCII files, which have been removed from the replacement discs filed with the present petition.

Upon consideration of applicants' arguments, the Office will grant the application a filing date of January 20, 2004, with the ASCII files as part of the original application. The Office will also allow applicants to proceed by cancelling the references to the non-ASCII files upon the filing of a preliminary amendment.

Accordingly, the petition is granted.

For the purposes of this decision, the Office will not make a determination at this time whether the non-ASCII files contain essential subject matter.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Conferee: Michael Lewis
Senior Legal Advisor
Office of Patent Legal Administration

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WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE TN 37203

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NOV 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Stewart et al.	:	
Application No. 10/761,734	:	DECISION ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. SEI07-1934A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

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

This matter is being referred to Technology Center AU 2855 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

JERRY L. MAHURIN
THE GATES CORPORATION
IP LAW DEPT. 10-A3
1551 WEWATTA STREET
DENVER, CO 80202

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-10-08

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/761761 Patent No.: 7318447

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.

Ennis Yawb
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

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

- ☐ Approved — All changes apply.
- ☒ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: The correction on the cover page has been entered. However the drawing sheets have not been entered since the formal drawings submitted on 8/7/06 were accepted by the examiner

Robin O. Evans
SPE

3753
Art Unit

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,318,447
APPLICATION NO.	:	10/761,761
ISSUE DATE	:	January 15, 2008
INVENTOR(S)	:	Stephanie M. Law

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:

On the Cover Page: — ok to enter

At field (73), "LLC." should be --LLC --.

At field (57), line 7, "assembly" should be -- assembly. --.

In the Drawings: — Do not enter

Replace drawing sheets 1 and 2 with attached drawing sheets 1 and 2.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Roger A. Heppermann
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

RECEIVED-USPTO
Patent Publication

JUN 2 4 2008

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland CO 80537-0599

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AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of
Janet Bee Yin Chua, Azlida Ahmad, Hwai Peng Choo, Hisham Menkara, and Christopher J. Summers
Application No. 10/761,762
Filed: January 21, 2004
Attorney Docket No. 70040065-1
Title: DEVICE AND METHOD FOR EMITTING OUTPUT LIGHT USING GROUP IIB ELEMENT SELENIDE-BASED PHOSPHOR MATERIAL

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 June 29, 2004.

On January 21, 2004, the application was deposited, identifying Janet Bee Yin Chua, Azlida Ahmad, Hwai Peng Choo, Hisham Menkara, and Christopher J. Summers as joint inventors. The application was deposited with a declaration which had not been executed by any of the inventors. On April 26, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

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.

On June 29, 2004, petitioner submitted the instant petition, the associated fee, the surcharge, a copy of a letter, and a statement of facts.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR §1.47(a).

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski

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

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United States Patent and Trademark Office
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JUL 18 2006
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AVAGO TECHNOLOGIES, LTD.
P.O. BOX 1920
DENVER CO 80201-1920

In re Application of	:	
Janet Bee Yin Chua et al	:	
Application No. 10/761,763	:	ON PETITION
Filed: January 21, 2004	:	
Attorney Docket No. 70040066-1	:	

This is a decision on the petition, filed July 13, 2006, and supplemented on July 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 5, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2879 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

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OFFICE OF PETITIONS

In re Application of :
Christopher Charles Willliams :
Application No. 10/761,765 : DECISION ON PETITION
Filed: January 21, 2004 :
Attorney Docket No. 3051U.001 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 20, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 11, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on June 14, 2005 (June 11, 2005, the due date, is a Saturday). A Notice of Abandonment was mailed on October 3, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of March 11, 2005 is accepted as being unintentionally delayed.

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

entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Technology Center AU 1762 for appropriate action in the normal course of business on the reply received April 20, 2007.

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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P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of :
McCall, et al. :
Application No. 10/761,772 : ON PETITION
Filed: January 20, 2004 :
Attorney Docket No. 1981/689 :

This is a decision on the papers styled, "Petition Under 37 CFR 1.181," filed on June 21, 2004 (Certificate of Mailing Date: June 18, 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 20, 2004, including the compact disc, filed on that date.

The application was filed on January 20, 2004. However, on April 19, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but the compact disc appear to have been omitted. Specifically, "The Office is unable to read all of the files on the compact disc(s)."

In response, on June 21, 2004, the instant petition and two (2) additional copies of the compact disc were submitted.

The compact disc submitted January 20, 2004, was tested in the Office of Petitions. The compact disc was found to be readable, with difficulty, however.[1] The following files were found on the compact disc, submitted January 20, 2004:

- Motion Detection Software (folder)
    - adcony.asm (file)

[1] The compact disc was not readable on the first attempt. A number of attempts were required on different USPTO computers in order to read the compact disc. However, the compact disc was found to be readable on a USPTO computer.

- delay.asm (file)
- framtx.asm (file)
- Main.asm (file)
- motion.asm (file)
- motx.pjt (file)
- quad.asm (file)
- startup.asm (file)
- tx_sync.asm (file)

- Wireless Software (folder)
  - delay.asm (file)
  - dirchk6.asm (file)
  - framerx.asm (file)
  - frametx.asm (file)
  - frd3_5.asm (file)
  - initial.asm (file)
  - wirbd3_5.asm (file)
  - wirbd3_5.pjt (file)

In view of the above, the petition is granted.

The $130.00 petition fee will be refunded to deposit account no. 23-1925.

This application will be returned to OIPE for processing with a filing date of January 20, 2004, including the compact disc submitted on that date. However, as the compact disc proved to readable, but with difficulty, the compact disc copies submitted June 21, 2004 shall be used for examination purposes.

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

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

Conferees: Jay Lucas and Michael Masinick

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OCT 06 2004

Director's Office
Group 3700

Jery T. Sewell
2040 Main Street
Fourteenth Floor
Irvine, CA 92660

In re application of Warren N. Root	: : :	**DECISION ON PETITION** **TO MAKE SPECIAL** **UNDER 37 CFR. 1.102(c)**
Serial Number: 10/761785 Filed: January 21, 2004	: :	

For: **ADJUSTABLE PAD FOR SUPPORTING HANDS AND ARMS**

This is a decision on the petition filed on January 21, 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: 10/04/04

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FERNANDO A. BORREGO
1238 BALFOUR STREET
GROSSE POINT PARK, MI 48230

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OFFICE OF PETITIONS

In re Application of :
Michael James Bleau :
Application No. 10/761,793 :
Filed: January 20, 2004 :
Attorney Docket No. MB-1-CIP :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 8, 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 September 20, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 21, 2004.

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, the $510 extension of time submitted on September 9, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded by treasury check in due course.

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; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed September 8, 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 2800, Art Unit 2873 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MARK A. LITMAN & ASSOCIATES. PA
YORK BUSINESS CENTER, SUITE 205
3209 WEST 76TH STREET
EDINA, MN 55435

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OFFICE OF PETITIONS

In re Application of	:	
Andrew Stronach, et al.	:	
Application No. 10/761,799	:	DECISION ON PETITION
Filed: January 21, 2004	:	TO WITHDRAW
Attorney Docket No. 311.005US1	:	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 22, 2007.

The request is **APPROVED**.

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

The request was signed by Mark A. Litman on behalf of himself.

All attorneys/agents associated this application have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ANDREW STRONACH
14875 BAYVIEW AVENUE
AURORA, ONTARIO L4G 3G8
CANADA

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
10/761,799	01/21/2004	Andrew Stronach	311.005US1

CONFIRMATION NO. 2309

Mark A. Litman & Associates, P.A.
York Business Center, Suite 205
3209 West 76th St.
Edina, MN 55435

POWER OF ATTORNEY NOTICE

OC000000027490266

Date Mailed: 12/31/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/22/2007.

- 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

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 10/761816 received on 02/23/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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JUN 1 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Rincon et al. :
Application No. 10/761,825 :
Filed: 20 January, 2004 :
Docket No. TI-30810A :

This is a decision on the petition under 37 CFR 1.53(b) filed on 14 May, 2004, requesting that the above-identified application be accorded a filing date of 20 January, 2004, with Page 3 of the specification as a part of the original disclosure.

The petition is **dismissed**.

On 20 January, 2004, the application was filed.

On 27 April, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of 20 January, 2004, but that Page 3 of the specification (description and claims) appeared to have been omitted from the application. A two (2) month period for reply was set.

In response, on 14 May, 2004, the present petition was filed, accompanied by Page 3 of the specification. Petitioners apparently concede that Page 3 was inadvertently omitted from the application as filed, but requests that the application, including Page 3, be accorded a filing date of 20 January, 2004, because the application is a continuation-in-part of Application No. 09/921,169 and incorporated the prior application by reference.

Petitioners' argument has been considered, but is not persuasive. The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that, *inter alia*, pages 1, 2, and 4-27 of specification, including one (1) page containing the abstract, were filed on 20 January, 2004. No page 3 of the specification was filed on 20 January, 2004 no such page of specification is present among the application papers received on that date. An applicant alleging

that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. As petitioners apparently concede that the omitted page of specification was not in fact filed on 20 January, 2004, the application cannot be accorded a filing date of 20 January, 2004, with Page 3 as a part of the original disclosure.

It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. However, due to the absence in the record of a postcard receipt itemized with respect to the specification that bears a USPTO date stamp of 20 January, 2004, showing that 27 pages of specification, including one page of abstract, were received in the USPTO on 20 January, 2004, the application cannot be accorded a filing date of 20 January, 2004, with Page 3 as a part of the original disclosure.

Moreover, petitioners' assertion that Page 3, which was omitted on filing and a part of a copending application referenced on the application transmittal sheet, is a part of the original disclosure, is not persuasive. A review of the record reveals that the specification, as filed, consist of 25 pages of written description and claims. The specification as filed, however, does not contain Page 3. Clearly Page 3 was intended to be a part of this application. Whether Page 3 were a part of a copending application is not an issue here since the copending application was not specifically incorporated by reference into the disclosure of this application.[2] The mere reference to another application is not an incorporation of anything therein into the

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[1] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

[2] See MPEP 608.01(p). No incorporation by reference of the prior application appears on the transmittal sheet or in the specification or preliminary amendment filed on 20 January, 2004.

application containing the reference.[3] To allow one to retroactively incorporate by reference a second application into a first application would allow the addition of matter into an application that was not present on filing which would be contrary to our statutes and rules. Still further, the question of new matter is not an issue here. Page 3 was simply not filed in the USPTO on 20 January, 2004. Matter included in Page 3 may be submitted as an amendment for consideration by the examiner under MPEP sections 608.02(p) and 608.04. In view of the above, the application cannot be accorded 20 January, 2004, as the application filing date with Page 3 as a part of the original disclosure.

The application will be processed and examined using only the application papers present on 20 January, 2004. The copy of Page 3 supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

Since this petition was not necessitated by an error on the part of the USPTO, the petition fee will not be refunded.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 20 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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[3] See In re de Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973); Dart Industries v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

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THOMSON LICENSING LLC
PATENT OPERATIONS
PO BOX 5312
PRINCETON, NJ 08543-5312

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OCT 16 2007

OFFICE OF PETITIONS

In re Application of
Hui Li, et al.
Application No. 10/761,828
Filed: January 20, 2004
Attorney Docket No. PD030017

ON PETITION

This is a decision in response to the petition, filed June 24, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 10, 2005. A Notice of Abandonment was mailed December 19, 2005. On January 10, 2007, the present petition was filed.

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 Joel Fogelson 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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

Accordingly, the petition is **GRANTED**.

The application is being referred to Technology Center AU 2176 for consideration of the amendment filed June 24, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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Two Independence Way
Suite 200
PRINCETON, NJ 08540

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OFFICE OF PETITIONS

In re Application of
Hui Li, et al.
Application No. 10/761,829
Filed: January 20, 2004
Attorney Docket No. PD030018

ON PETITION

This is a decision in response to the petition, filed August 3, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Jack Schwartz 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. Schwartz 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 above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 26, 2006. A Notice of Abandonment was mailed February 23, 2007. In response, on August 3, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

Accordingly, the petition is **GRANTED**.

The application is being referred to Technology Center AU 2164 for consideration of the amendment filed August 3, 2007.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, 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) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JACK SCHWARTZ
1350 BROADWAY
SUITE 1510
NEW YORK, NY 10018

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ANDERSON & MORISHITA, L.L.C.
2725 S. JONES BLVD.
SUITE 102
LAS VEGAS, NV 89146

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OFFICE OF PETITIONS

In re Application of	:	
Johnston, Stanley	:	
Application No. 10/761,837	:	DECISION GRANTING PETITION
Filed: January 20, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. JOHNSTON03-01	:	

This is a decision on the petition, filed March 30, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 20, 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 July 21, 2005 accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 1617 for examination in due course.

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

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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ROBERT RYAN MORISHITA
MORISHITA LAW FIRM, LLC
8960 WEST TROPICANA AVENUE
SUITE 300
LAS VEGAS NV 89147

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OFFICE OF PETITIONS

In re Application of	:	
Johnston, Stanley	:	
Application No. 10/761,837	:	DECISION ON PETITION
Filed: January 20, 2004	:	
Attorney Docket No. JOHNSTON03-01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

The $770.00 petition fee was submitted twice. Accordingly, one of the two payments will be refunded via treasury check in due course.

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

This matter is being referred to Technology Center 1617 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

PTO/SB/64 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)
JOHNSTON 03-01

First named inventor: Johnston, S.

Application No.: 10/761,837 Art Unit: 1617

Filed: 1/20/2004 Examiner: Hui, S.

Title: Wound Treatment Composition and Process of Manufacture

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))

2. Reply and/or fee

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

☑ has been filed previously on June 3, 2008.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____
☐ has been paid previously on _____.
☐ is enclosed herewith.

Adjustment date: 06/30/2008 CKHLOK
06/26/2008 AKELLEY 00000001 10761837
01 FC:1999 -770.00 OP

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

/Robert Ryan Morishita/	June 4, 2008
Signature	Date
Robert Ryan Morishita	42709
Typed or printed name	Registration Number, if applicable
8960 W Tropicana Ave Ste 300	702-222-2113
Address	Telephone Number
Las Vegas, NV 89147	
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.

June 4, 2008	/Robert Ryan Morishita/
Date	Signature
	Robert Ryan Morishita
	Typed or printed name of person signing certificate

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 6/26/08

2 Serial/Patent # 10761837

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
✓	Notice of Appeal/Appeal			$
✓	Petition	—	6/4/08	$ 770.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 770.00

8 TO BE REFUNDED BY:

✓ Treasury Check

Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
✓	Duplicate Payment
	No Fee Due (Explanation):

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Liana Walsh TITLE: Petstr.

SIGNATURE: LWalsh PHONE: 23206

OFFICE:

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 6/30/08

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

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

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BELL, BOYD & LLOYD, LLC
P. O. BOX 1135
CHICAGO, IL 60690-1135

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JUL 1 0 2006
OFFICE OF PETITIONS

In re Application of :
Harald Rohde : DECISION ON
Application No. 10/761,848 : PETITION
Filed: January 21, 2004 :
Attorney Docket No. 112740-912:

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT," filed May 25, 2006.

The above-identified application became abandoned for failure to timely file a proper reply to the Restriction Requirement mailed September 20, 2005. The Office action set a one month shortened statutory period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No reply having been received and no extension obtained, the application became abandoned effective October 21, 2005. A courtesy Notice of Abandonment was mailed on May 23, 2006.

In response, applicant timely filed the instant petition. Applicant submits that a response was timely filed on October 20, 2005 and was received by the Office on October 24, 2005. However, applicant acknowledges that the response as filed identified the wrong application number. In support thereof, applicant provided a copy of their itemized return postcard and a copy of the response as applicant maintains it was filed on October 24, 2005.

A review of the petition and of the record of the misidentified application confirms that the response as petitioner maintains it was filed on October 24, 2005 was, in fact, filed with the wrong application number. Further investigation reveals that the response with a date of receipt of October 24, 2005, and a certificate of mailing pursuant to 37 CFR § 1.8 dated October

20, 2005, was entered in the misidentified application. This has been corrected. The election filed October 24, 2005, has been "moved" from the electronic record of the incorrectly identified application to the record of the instant application. Moreover, given the certificate of mailing, the response is considered timely filing.

In view thereof, the notice of abandonment mailed May 23, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

A fee for consideration of the petition pursuant to 37 CFR 1.137(a) was charged. This fee has been refunded to petitioner's Deposit Account, as authorized.

Technology Center AU 2883 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the election timely filed October 24, 2005 (with a certificate of mailing dated October 20, 2005).

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
www.uspto.gov

JUL 25 2005

WEISS & MOY PC
4204 North Brown Avenue
Scottsdale, AZ 85251

In re application of Frank M. Gevay Application No. 10/761,867 Filed: January 21, 2004 For: EMERGENCY ROOF DETACHMENT DEVICE FOR A 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 copy of a driver's license for Mr. Gevay indicating that he is at least 65 years of age.

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

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

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

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 07/20/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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JAN 0 9 2008

OFFICE OF PETITIONS

In re Application of :
Robert Allan Phillips :
Application No. 10/761,899 : ON PETITION
Filed: January 21, 2004 :
Attorney Docket No. 14450.0006US01

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 18, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3766 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Groppi et al.	:	
Application No. 10/761,914	:	
Filed: January 21, 2004	:	ON PETITION
Attorney Docket Number:	:	
PC27871A	:	

This is a decision in response to the Petition under 37 CFR 1.137(b), filed September 23, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), mailed April 27, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on July 28, 2004. A Notice of Abandonment was mailed January 14, 2005.

With the instant petition Petitioner has filed the necessary documents and paid the requisite fees.

The Oath/declaration and Power of Attorney have been entered and made of record.

This application is being forwarded to the Office of Initial Patent Examination for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BAXTER HEALTHCARE CORPORATION
ONE BAXTER PARKWAY
MAIL STOP DF2-2E
DEERFIELD IL 60015

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DEC 1 1 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Cary J. Reich et al.	:	
Application No. 10/761,922	:	
Filed: January 20, 2004	:	
Attorney Docket No. WMFUS-5879(1)CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 18, 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 October 3, 2006 which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on January 4, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Nathan S. Cassell
Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834

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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SEP 07 2005

OFFICE OF PETITIONS

In re Application of	:
Larry D. King et al	:
Application No. 10/761,931	: DECISION GRANTING PETITION
Filed: January 15, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. H0005791	:

This is a decision on the petition, filed August 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 April 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3662 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Ashok L. Cholli	: DECISION ON REQUEST FOR
Patent Number	: 7595074	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/761,933	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1268** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date :June 24, 2008

Patent No. :7435744
Inventor(s) :Domany et al.
Issued :10/761940
Title :PIPERIDINE DERIVATIVES AS NMDA RECEPTOR ANTAGONISTS

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions
EFS web	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Rakoczy Molino Mazzochi LLP
Suite 500
6 West Hubbard Street
Chicago Ill 60610

/arg

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MADSON & METCALF
GATEWAY TOWER WEST
15 WEST SOUTH TEMPLE, SUITE 900
SALT LAKE CITY, UT 84101

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of
Paul J. Hepworth et al
Application No. 10/761,949
Filed: January 21, 2004
Attorney Docket No. 3271.2.22

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 29, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on January 21, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

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

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122 (b) (2) (B) (i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 15, 2005 accompanies this decision on petition.

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

This matter is being referred to Technology Center AU 2876 for examination in due course.

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

Attachment: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD.,
SUITE 1150
IRVINE CA 92612

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Hambright	:	
Application No. 10/761,971	:	DECISION ON PETITION
Filed: January 20, 2004	:	TO WITHDRAW
Attorney Docket No. HAM1.PAU.01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 9, 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 Vic Y. Lin on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Gary W. Hambright
11139 Archway Drive
Whittier, CA 90604

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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GATEWAY, INC.
ATTN: Patent Attorney
610 GATEWAY DRIVE
MAIL DROP Y-04
N. SIOUX CITY, SD 57049

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JUL 17 2008
OFFICE OF PETITIONS

In re Application of	:	
Wayne M. Pruchniak	:	
Application No. 10/761,988	:	ON PETITION
Filed: January 21, 2004	:	
Attorney Docket No. P1979US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on February 29, 2008, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed May 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,440 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $6 for two advanced order soft copies filed on February 29, 2008.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE OH 43023

In re Application of	:	
John D. Phillips	:	
Application No. 10/761,996	:	ON PETITION
Filed: January 21, 2004	:	
Attorney Docket No. 25003B	:	

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

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 31, 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 May 1, 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)(III)(C) and (D). The instant petition lacks item(s) 1.

The applicant failed to submit the required reply. It is also noted that the applicant alleged that the office action was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had

it been received and docketed must be attached to and referenced in practitioner's statement. *See* MPEP 711.03(c), under the subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action;" and 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

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

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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

OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE OH 43023

COPY MAILED
AUG 0 2 2007
OFFICE OF PETITIONS

In re Application of
John D. Phillips
Application No. 10/761,996
Filed: January 21, 2004
Attorney Docket No. 25003B

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 5, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 31, 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 May 1, 2006.

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

The applicant failed to submit the required reply.

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

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Courtesy Copy of Non-final Rejection dated January 31, 2006

ay

Attachment: Courtesy Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,996	01/21/2004	John D. Phillips	25003B	4300

22889 7590 01/31/2006

OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE, OH 43023

EXAMINER
KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
3635	

DATE MAILED: 01/31/2006

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

Office Action Summary	Application No.	Applicant(s)	
	10/761,996	PHILLIPS, JOHN D.	
	Examiner	Art Unit	
	Basil Katcheves	3635	

-- 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 31 October 2005.

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) 14-24 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) 14-24 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 _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☒ Other: Marked drwg.

DETAILED ACTION

Applicant has amended claims in the paper dated 10/31/05. Pending claims 14-24 are examined below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) 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.

Claim14-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. Des. 369,421 to Kiik et al. in view of U.S. Patent No. 6,014,847 to Phillips.

Regarding claims 14 and 18, Kiik discloses a variably (random) cut shingle (see title) having an overlay sheet and underlay sheet (marked fig. 1), each overlay sheet having a plurality of select tabs and the underlay sheets having a plurality of shadow patches (marked fig. 1). Kiik also discloses the tabs as covering portions of the patches (fig. 2). In addition, Kiik discloses a portion which can be construed as a non shadow portion (marked figure) which, together with the shadow patches and remainder portions cause the shingle to appear as varying. However, Kiik does not disclose the underlay sheet as having granules of dark and light color. Phillips discloses a shingle with an

underlay sheet having granules of light and dark colors. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kiik by using an underlay sheet having differing colors, as disclosed by Phillips in order to aid in the ornamental and random design as intended by Kiik.

Regarding claim 15, Kiik discloses a remainder portion visible under a bottom edge of a tab (marked fig. 2).

Regarding claim 16, Kiik discloses the shingle as having a longitudinal axis and the remainder portion as having a vertical portion perpendicular to the shingle axis 9marked fig. 2).

Regarding claim 17, Kiik discloses the longitudinal axis of the remainder portion as being parallel with the longitudinal axis of the shingle (marked fig. 2).

Regarding claim 19, Kiik discloses a shadow patch width as disposed along the longitudinal width of the shingle (marked fig. 2). Kiik also discloses the shadow width (marked fig. 2) as being longer than the tab width (marked fig. 2). Kiik also discloses the patches and tabs alternating along the length in a synchronized manner (fig. 2).

Regarding claim 20, Kiik discloses the two sheets as laminated together (figs. 3-5) and tabs covering partial portions of patches (fig. 2).

Regarding claim 21, Kiik discloses the remainder portion (marked fig. 2) as being established by the varying lengths of the tabs and patches (marked fig. 2).

Regarding claim 22, Kiik discloses the shingle as being random cut, therefore inherent of having varying remainder portions from shingle to shingle.

Regarding claim 23, Kiik discloses the remainder portion as having a vertical portion which is perpendicular to the longitudinal axis.

Regarding claim 24, Kiik discloses the remainder portion as having a longitudinal portion which is parallel to the shingle longitudinal portion (marked fig. 2).

Response to Arguments

Applicant's arguments filed 10/31/05 have been fully considered but they are moot under new grounds of rejections.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

BK

1/26/06

Basil Katcheves

Examiner AU 3635

MARKED DRAWING
FOR APPLICATION
10/761996

FIG. 1

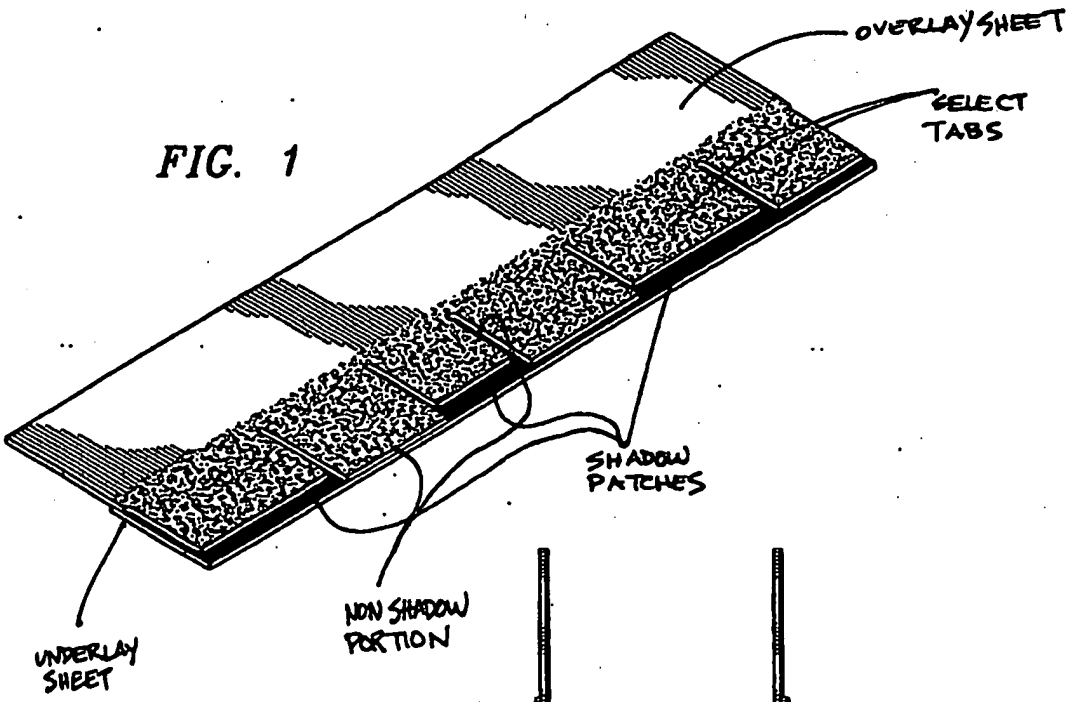

FIG. 4

FIG. 5

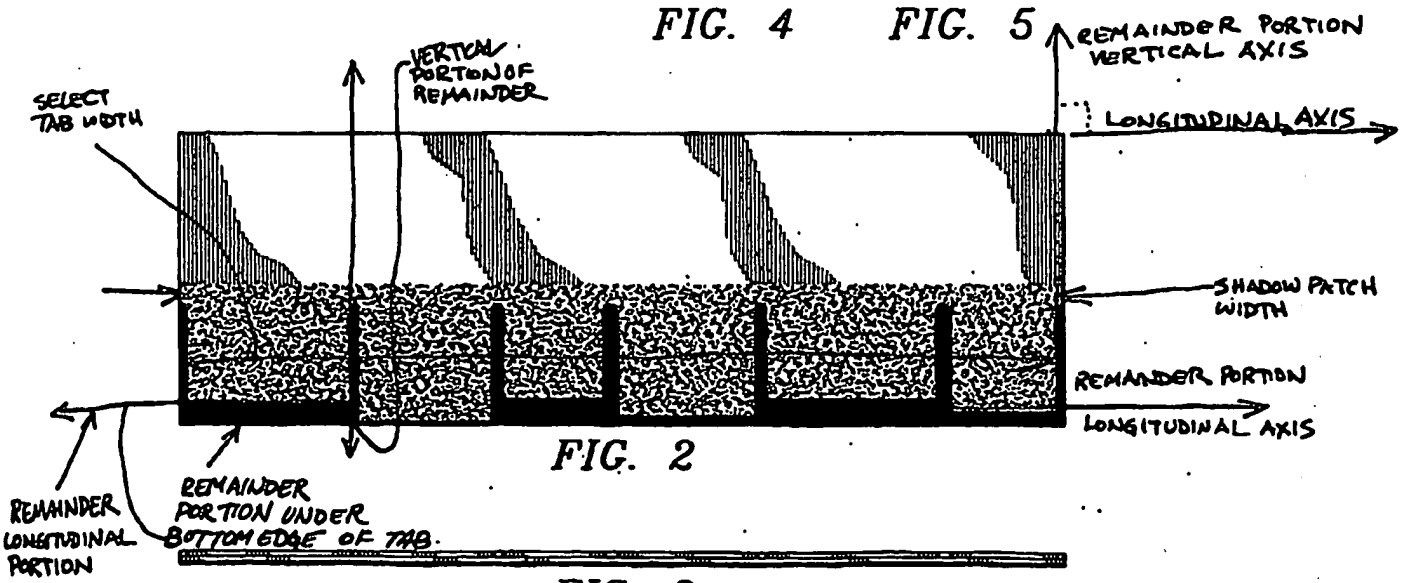

FIG. 2

FIG. 3

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061002

DATE : October 2, 2006

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 10/762,026

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: Thomas McKenzie **Art Unit** 1625

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 10/762,026

DATED: October 2, 2006
INVENTOR(S): David Clive Blaskemore et al

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

The inventorship under 37 C.F.R. 1.324(b)(2) has been corrected and approved below:

The names of the inventors " Justin Stephen Bryans" and " Simon Andrew Osborne" are removed from the inventors on U.S. patent 6,835,751 B2. The following names of the current inventors on U.S. patent 6,835,751 B2 are "David Clive Blakemore" and " Jean-Marie Receveur" .

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 10/762,026

DATED: October 2, 2006
INVENTOR(S): David Clive Blaskemore et al

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

Title page,

Item [73], Assignee: "Warner-Dambert Company LLC" should read -- Warner -Lambert company LLC--

20

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

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of	:
Larry W. Payne	: DECISION ON PETITION
Application No. 10/762,027	: UNDER 37 CFR 1.78(a)(3)
Filed: January 21, 2004	:
Atty Docket No. TH2320 (US)	:

This is a decision on the petition, filed January 18, 2005, which is being treated under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application No. 10/431,189.

The petition is **DISMISSED**.

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

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

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

Petitioner failed to submit an Application Data Sheet or an amendment to the first sentence of the specification following the title to include a proper reference to prior-filed application No. 10/431,189. It is noted that, while an amendment accompanied this petition, it refers to prior-filed provisional application No. 60/445,568. The claim for priority to this prior-filed provisional application has already been noted by the Office, as shown by its inclusion on the filing receipt.

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and a substitute amendment[1] stating the relationship of the prior-filed application to the instant application is required.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

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

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

[1] Note 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 2 4 2008

ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

In re Application of	:	
Koller, et al.	:	
Application No. 10/762,047	:	DECISION
Filed: 21 January, 2004	:	
Attorney Docket No. A01484	:	

This is a decision on the petition filed on 11 March, 2008, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the 12 June (the date is misstated in the Notice of Abandonment as 11 June), 2007, Notice of Non-Compliant Appeal Brief), with reply due absent extension of time on or before 12 July, 2007;

- On 18 June, 2007, Petitioner filed *via* FAX an amended Appeal Brief of thirteen (13) pages plus the Certificate of FAX transmission page for a total of fourteen (14) pages—notably the Certificate of FAX Transmission page carried an incorrect application number (to wit: Application No. 10/238,309), however that page did contain other correct information including Petitioner's docket number and the brief as well as the "Response to Notification of Non-Compliant Brief" carried the correct application number and docket number;

- however, the Office mailed the Notice of Abandonment on 11 January, 2008 (however, the Notice of Abandonment misstated the date of the Office action in question (the Notice of Non-Compliant Appeal Brief) as 11 June, 2007);

- on 11 March, 2008, Petitioner filed the instant petition with, *inter alia*, an averment that a reply had been timely and properly filed, and in support thereof Petitioner included a copy of the Auto-Reply Facsimile Transmission dated "6/18/07" an reflecting that fourteen (14) pages, including the cover ("Certificate of Facsimile") page, had been received by the Office—providing a showing consistent with the guidance at the Commentary at MPEP §711.03(c)(I)(A) and (B) (regarding non-receipt and timely filing, respectively).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

---

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

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

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.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8] (See: the commentary at MPEP §711.03(c)(I)(A) and (B) , as to non-receipt and timely filing, respectively.)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein.

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

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

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

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

8 See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 11 January, 2008, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center AU 1794 to await the Examiner's Answer in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center AU in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center AU where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[9] 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.: X

DATE : July 24, 2008

TO SPE OF : ART UNIT **1623**

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/762078 Patent No.: 7371852 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.

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

Comments: OK to enter

/S. A. Jiang/ 1623

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Atsushi Miyamoto	: DECISION ON REQUEST FOR
Patent Number	: 7602962	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/762,091	: 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 **1154** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS, IN 46204

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FEB 1 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Aaron Schipper	:	
Application No. 10/762,095	:	DECISION ON PETITION
Filed: January 21, 2004	:	
Attorney Docket No. TCI-P0003	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 22, 2008, to revive the above-identified application.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 2, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). 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 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on December 22, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received December 22, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

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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
10/762,107	01/21/2004	1624	428	8822/2022	21	11	4

CONFIRMATION NO. 4987

CORRECTED FILING RECEIPT

OC000000013263052

29933
PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON, MA 02199

Date Mailed: 07/16/2004

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)

Brian O. Bachmann, Nashville, TN;
James B. McAlpine, Montreal, CANADA;
Emmanuel Zazopoulos, Montreal, CANADA;
Chris M. Farnet, Qutremont, CANADA;
Mahmood Piraee, Montreal, CANADA;

Assignment For Published Patent Application

Ecopia Biosciences, Inc.;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/441,126 01/21/2003
and claims benefit of 60/492,997 08/07/2003
and claims benefit of 60/518,286 11/10/2003

Foreign Applications

If Required, Foreign Filing License Granted: 05/13/2004

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

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Farnesyl dibenzodiazepinone, processes for its production and its use as a pharmaceutical

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).

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OFFICE OF PETITIONS

PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON MA 02199

In re Application of Bachmann et al Application No. 10/762,107 Filed: January 21, 2004 Attorney Docket No.: 8822/2022	: : : : :	DECISION GRANTED-IN-PART

This is a decision on the petition filed July 14, 2004, requesting in effect, that a Notice to File Missing Parts in a Nonprovisional Application ("Notice") mailed May 14, 2004, be withdrawn.

The application was filed on January 21, 2004. However, on July 14, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of January 21, 2004 but figure 20 as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends figure 20 was filed on January 21, 2004. In support, the petition is accompanied by a copy of applicant's return postcard which lists "147 formal sheets figs. 1-20". The petition is further accompanied by a copy of figure 20.

Applicant's postcard receipt is prima facie evidence that 147 sheets of drawings including figure 20 as described in the specification was received on January 21, 2004. A review of the record shows that figure 20 has been located in the file. It is obvious that no drawings were actually missing on January 21, 2004 and applicant is not seeking to submit any additional drawings.

The petition is Granted-In-Part to the extent it applies to the omitted figure. However, the Notice was correct regarding the requirement to submit an executed oath or declaration. No petition fee is due. Deposit account 16-0085 will be refunded the $130.00 petition fee and charged a late filing declaration fee in the amount of $65.00.

Since figure 20 as described in the specification has been

located in the Office, figure 20 supplied on January 21, 2004, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of January 21, 2004, using the 147 sheets of drawings submitted on January 21, 2004.

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

Charlema R. Grant
Petition Attorney
Office of Petitions

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Paper No.

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

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OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	DECISION ON PETITION
Application No. 10/762,108	:	
Filed: January 21, 2004	:	
Atty Docket No. CT-2731A CIP1	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINENTIONALLY UNDER 37 CFR 1.137(b) filed August 31, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the restriction requirement mailed November 15, 2005. This Office action set a shortened statutory period for reply of one (1) month, 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 December 16, 2005. A courtesy Notice of Abandonment was mailed on June 14, 2006.

The petition includes the required reply in the form of an election, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 1625 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed August 31, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-6-05

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 6829094

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 3-922
Palm location **7580** - Tel. No. 305-8009

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.

check claims

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:

All changes approved for entry.

ARNEL LAVARIAS
PRIMARY PATENT EXAMINER

Stephone B. Allen
Supervisory Patent Examiner

SPE — **Art Unit** 2872

Copied from 10762115 on 09/25/2005

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OFFICE OF PETITIONS

In re Application of :
Boyle, et al. :
Application No. 10/762,159 :
Filed: January 20, 2004 :
Attorney Docket No. A-378CIP2C5 :

DECISION GRANTING PETITION

This is a decision on the petition filed July 2, 2004, that is responsive to the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed May 5, 2004.

On January 20, 2004, the application was deposited.

On May 5, 2004, the Office of Initial Patent Examination mailed the Notice stating that drawings were not found with the application papers, but appeared to be required in order to obtain a filing date. The Notice also indicated that a sequence listing was required, but not found with the application papers. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on July 2, 2004. Petitioner maintains that the application was complete on filing and entitled to a filing date because the application incorporated by reference the entire disclosure of a prior application.

In this case, however, it has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that Claim 49 is a method claim. Therefore, the present application is deemed to be an application that does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, was entitled to the filing date of January 20, 2004.

The petition fee of $130.00 will be refunded, in due course.

The absence of the sequence listing is not addressed by this decision as the sequence listing is not required in order to accord the application a filing date. It is expected, however, that the Office of Initial Patent Examination will issue a notice requiring that the sequence listing and other relevant, but omitted, material be filed.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of January 20, 2004. Prior to the first action on the merits, petitioner should file a preliminary amendment requesting entry of the omitted drawings.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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W. ALLEN MARCONTELL
P.O. BOX 800149
HOUSTON TX 77280-0149

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OFFICE OF PETITIONS

In re Application of	:	
William T. Bell	:	
Application No. 10/762,182	:	DECISION ON PETITION
Filed: 21 January, 2004	:	
Attorney Docket No. Titan 002.1C	:	

This is a decision on the petition filed on 29 September, 2004, styled under 37 CFR 1.182, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application, including two (2) sheets of drawings, be accorded a filing date of 21 January, 2004.

The petition is granted.

On 21 January, 2004, the application was filed.

On 4 August, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that application should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings.

In response, on 29 September, 2004, the present petition and a copy of two (2) sheets of drawings, were filed. Petitioner argues that two (2) drawing sheets was filed with the other application papers on 21 January, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 21 January, 2004, with the above-identified application number, and identifies the application by the express mail number contained on the transmittal letter and the attorney's name, and acknowledges receipt of, *inter alia*,

drawings - 2 Sheets. Petitioners request that the application, including the two (2) sheets of drawings, be accorded a filing date of 21 January, 2004.

A review of the record reveals that no sheets of drawings received on 21 January, 2004, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 21 January, 2004, included two (2) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including two (2) sheets of drawings, is entitled to a filing date of 21 January, 2004.

In view of the above, the petition is granted. As the present petition was necessitated by Office error, the petition fee is unnecessary. Petitioner may request a refund thereof by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioner's request. Alternatively, petitioner may request that this amount be applied to any other fee due in this application.

The application will be processed with the copy of the two (2) sheets of drawings supplied on 29 September, 2004, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 21 January, 2004, using the application papers filed on that date, and the copy of two (2) sheets of drawings supplied with the present petition, and for an indication in Office records that two (2) sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Puregress Inc.
Alexander Glew
970 Alura Way
Los Altos CA 94024

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OFFICE OF PETITIONS

In re Application of	:
Noyes, et al.	:
Application No. 10/762,191	: ON PETITION
Filed: January 20, 2004	:
Attorney Docket No. 81686/7442	:
For: CONTROL VALVES	

This is a decision on the petition filed May 2, 2006 (certificate of mailing date April 28, 2006) under 37 CFR 1.47(a).

The petition must be treated **(1)** under 37 CFR 1.48(a), as a reqest to amend the inventive entity by the addition of Leslie L. Briley, Jr., **(2)** under 37 CFR 1.183, as a request of the waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being added as an inventor (Briley) as to his lack of deceptive intent in not being named as an inventor from the start, and **(3)** under 37 CFR 1.47, to accept a declaration that lacks the signature of Briley, as required by 37 CFR 1.63.

The petition under 37 CFR 1.48(a) is **dismissed**.

The constructive petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2) is **dismissed**.

The petition under 37 CFR 1.47 is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. FAILURE TO TIMELY RENEW THE PETITION WILL RESULT IN ABANDONMENT. The reconsideration request should include a cover letter entitled "Renewed Petitions under 37 CFR 1.48, 1.183, and 1.47."

There are currently two joint inventors. Douglas B. Noyes and Alexander David Glew. Petitioner appears to be attempting to add an inventor.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition including a statement from *each person being added* and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (3) the fee set forth in 37 CFR 1.17 (i); and (4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petitions of record lack compliance with items (1), (2), and (4).

With respect to (1) above, each person being added must present *his* statement of lack of deceptive intent, or, if *his* statement cannot be obtained, then upon a showing of (1) extraordinary circumstances, such that (2) justice requires, petitioner may seek waiver under 37 CFR 1.183 of that part of the regulation. See MPEP 201.03(B). Petitioner must show that the inability to obtain the statement from Briley is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond his control. A request for waiver must be accompanied by a $400.00 petition fee.

With respect to (2) above, no declaration has been filed that lists all three inventors and contains signatures from all of the inventors OR from the available inventors with a grantable petition under 37 CFR 1.47(a) covering the lack of Mr. Briley's signature.

With respect to (4) above, the explicit written consent of any existing assignee is not included.

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

As a preliminary matter, the petition lacks the $200.00 petition fee. The merits of the petition will not be addressed until the Rule 47 petition fee of $200.00 is paid.

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 pertaining to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Puregress Inc.
Alexander Glew
970 Alura Way
Los Altos, CA 94024

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Director's Office
Group 3700

In re Patent No. NOYES ET AL.
Issue Date: October 10, 2006
Appl. No.: 10/762,191
Filed: January 20, 2004
For: **CONTROL VALVES**

DECISION DISMISSING PETITION
37 CFR 1.324

This is a decision on the petition filed September 22, 2006 to correct inventorship. Although the petition was filed under 37 CFR 1.48 a few weeks before the issue date of the patent, the petition was not forwarded for decision until after the issuance of the patent. The petition is treated as a petition to correct inventorship under 37 CFR 1.324 because the patent has already issued.

The petition is dismissed.

A petition to correct inventorship as provided by 37 CFR 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, (2) a statement from the current named inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change, (3) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b). This petition lacks item(s) 2.

Eric Keasel
Supervisory Patent Examiner
Art Unit 3753
Technology Center 3700

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KENTON R. MULLINS
STOUT, UXA, BUYAN & MULLINS, LLP
4 VENTURE, SUITE 300
IRVINE CA 92618

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OFFICE OF PETITIONS

In re Application of
Kevin A. Thomas et al.
Application No. 10/762,204
Filed: January 20, 2004
Attorney Docket No. MA9665P

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed October 1, 2004 (certificate of mail date September 27, 2004) under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on January 1, 2004, naming Kevin A. Thomas, Brian L. Starling, James E. Stephan and Kenneth K. Kleinhenz as joint inventors but without a signed declaration. Accordingly, on April 26, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on October 1, 2004, an oath or declaration executed by joint inventors Thomas, Starling and Kleinhenz, a petition under 37 CFR 1.47(a) and a request for a three month extension of time was filed. The petition argues that joint inventor Stephan refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were sent to Mr. Stephan and that he has expressly, in writing, refused to sign the oath or declaration or to cooperated with the filing of the instant application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this

application is hereby accorded Rule 1.47(a) status.

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

Please note however that the application serial no. placed on the petition is incorrect. Please be careful to properly indicate the application serial no. on correspondence when communicating with the USPTO in the future, to minimize any potential for confusion that may cause a delay in an action regarding the above identified patent application.

The application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

JAMES E. STEPHAN
6010 WRIGHT STREET
ARVAD, CO 80004

In re Application of
Kevin A. Thomas et al.
Application No. 10/762,204
Filed: January 20, 2004
For: RESORBABLE RADIOPAQUE MARKERS AND RELATED MEDICAL IMPLANTS

Dear Mr. Stephan:

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 Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
KENTON R. MULLINS
STOUT, UXA, BUYAN & MULLINS, LLP
4 VENTURE, SUITE 300
IRVINE CA 92618

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APR 18 2007
TECHNOLOGY CENTER 2800

Godfrey & Kahn S.C.
780 North Water St.
Milwaukee, WI 53202

In re Application of:	:	
Timothy FORD et al.	:	NOTICE OF WITHDRAWAL
Application No. 10/762,215	:	FROM ISSUE
Filed: January 21, 2004	:	UNDER 37 CFR § 1.313
Attorney Docket No.	:	
055189-0012		

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed January 25, 2007, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Jong-Suk (James) Lee at (571) 272-7044.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Janice A. Falcone

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

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United States Patent and Trademark Office
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Josiah Brown	: DECISION ON REQUEST FOR
Patent Number	: 7658998	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/762,220	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1361** 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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WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Philip C. Gevas, et al.	:	
Application No. 10/762,226	:	DECISION ON PETITION
Filed: January 20, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 1102865-0031 CON	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 26, 2004, to accept an unintentionally delayed claim under 35 U.S.C.§ 119(e) for the benefit of prior-filed provisional Application No. 60/011,411, filed February 8, 1996.

The petition is **DISMISSED AS MOOT**.

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

Petitioner has submitted on July 26, 2004, an amendment to add a new paragraph to the specification immediately following the title to include a reference to prior-filed provisional Application No. 60/011,411, filed February 8, 1996.

The instant pending nonprovisional application was filed on January 20, 2004, and was pending at the time of filing of the instant petition. While a reference to the prior-filed provisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would

have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(5). However, on the other hand, if the USPTO does not note the claim for priority to the provisional application in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of provisional Application No. 60/011,411 in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1330 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course. The $770 basic filing fee is being charged to counsel's deposit account since it is noted that the fee, required by the Notice to File Missing Parts of Nonprovisional Application mailed May 6, 2004, was not charged as authorized in the general authorization contained in the "Response to Notice to File Missing Parts..." filed September 27, 2004. Receipt is acknowledged of the requisite surcharge, two-month extension of time fee and the sequence listing on September 27, 2004.

This application is being forwarded to Technology Center AU 1614 for consideration by the examiner of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(6) for the benefit of prior-filed provisional Application No. 60/011,411, filed on February 8, 1996.

Any questions concerning this decision on petition may be directed to Sherry Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

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

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

---

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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MONTGOMERY W. SMITH
TYCO ENGINEERED PRODUCTS & SERVICES
SEVEN HOLLAND WAY
EXETER NH 03833

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Michael A. Fischer :
Application No. 10/762,275 :
Filed: January 23, 2004 :
Attorney Docket No. 16124:E-US :

This is a decision on the petition, filed April 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 February 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]

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

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

---

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

The examiner of Technology Center AU 3752 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

cc:
MORGAN, LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004

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S2IPLAW, PLLC
300 MASSACHUSETTS AVENUE, NW, SUITE 1101
WASHINGTON, DC 20001-2692

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OFFICE OF PETITIONS

In re Application of :
Paul Brantner :
Application No. 10/762,278 :
Filed: January 23, 2004 :
Attorney Docket No. 48469-00008

ON PETITION

This is a decision on the petition filed, May 8, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 16, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2834 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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PILLSBURY WINTHROP SHAW
PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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In re Application of	:	
Christopher Paul Chambers	:	
Application No. 10/762294	:	
Filing or 371(c) Date: 01/23/2004	:	ON PETITION
Attorney Docket Number:	:	
016955-0307491	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 16, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

Background

A final Office action was mailed February 28, 2006, wherein no claims were allowed. Applicant filed a Notice of Appeal on June 28, 2006, and thereafter timely filed an appeal brief on February 20, 2007. The appeal brief was non-compliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief (Notice), mailed June 26, 2007. The Notice set a one (1) month or thirty day period for reply from the mail date of the Notice. Applicant filed a Supplemental Appeal Brief in response to the Notice on July 17, 2007; however, the Supplemental Appeal Brief was also noncompliant. Applicant was so notified in an Office communication, mailed September 6, 2007. The period for response remained as set forth in the Notice of Non-Compliant Appeal Brief, mailed June 26, 2007. No timely and properly having been received, and no claims having been allowed, the appeal was dismissed and the application became abandoned on May 29, 2007[1].

The present petition

Applicant files the present request for reconsideration and a Supplemental Appeal Brief. The Appeal Brief has been approved by the Examiner.

[1] The MPEP, 1205.02, provides that the appeal will be dismissed if the appellant does not timely file an amended brief, or files an amended brief which does not overcome all the reasons for noncompliance of which the appellant was notified.

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

Accordingly, the petition is granted. Accord MPEP 1215.04. The application is being referred to Technology Center Art Unit 3654 for processing of the Supplemental Appeal Brief.

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

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

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Alban Couturier	: DECISION ON REQUEST FOR
Patent Number	: 7583604	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/762,301	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1089** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Suite 500
1751 Pinnacle Drive
McLean VA 22102-3833

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OFFICE OF PETITIONS

In re Application of
Studholme et al.
Application No. 10/762,314
Filed: January 23, 2004
Attorney Docket No. T2316-907194US02

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action, which was mailed on March 23, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on June 24, 2006. A Notice of Abandonment was mailed on November 24, 2006.

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

Pursuant to petitioner's request deposit account no. 04-2223 will be charged the $1540.00 petition fee.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

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

This application is being referred to Technology Center AU 1711 for appropriate action by the Examiner in the normal course of business on the reply received.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Richard H. Tushin
Franklin Square, 3rd Floor West
1300 I Street, N.W.
Washington, DC 20005-3353

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MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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JAN 25 2007

OFFICE OF PETITIONS

In re Application of :
Qin-Yin Tong et al :
Application No. 10/762,318 : ON PETITION
Filed: January 23, 2004 :
Attorney Docket No. 247830US-20 CONT

This is a decision on the petition filed, January 24, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 12, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2823 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

---

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

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OFFICE OF PETITIONS

In re Application of	:	
Giddings, et al.	:	
Application No. 10/762,325	:	DECISION ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. RD-27,791-3	:	

This is a decision on the "RESPONSE TO NOTICE OF OMITTED ITEM AND PETITION TO REFUND THE 37 CFR § 1.17(H) FEE", filed August 24, 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 23, 2004, with Figures 2 and 3 of the drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on January 23, 2004. However, on August 4, 2004, the Initial Patent Examination Division mailed applicants a "Notice of Omitted Item(s) in a NonProvisional Application." Applicants were notified that the application papers had been accorded a filing date of January 23, 2004; however, Figures 2 and 3 of the drawings appeared to have been omitted.

In response, applicants filed the instant petition. Accompanying the petition was a copy of Figures 2 and 3 of the drawings. Applicants maintain that the application as originally filed included Figures 2 and 3. In support thereof, applicants submitted a filing receipt identifying this application, itemizing "Drawings (two sheets)" as enclosed, bearing a United

States Patent and Trademark Office date-stamp of January 23, 2004, and lacking any notation of non- receipt of any item listed.

A 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, the $130 petition fee will be refunded to petitioner under separate cover.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of January 23, 2004, using the application papers received in the Office on that date and Figures 2 and 3 of the drawings as resupplied on petition filed August 24, 2004.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/15/08

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/762343** Patent No.: **7270795**

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.

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

Comments: _____

SPE 1793 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/15/08

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/762343** Patent No.: **7270795**

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.

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

Comments: _____

SPE 1793 Art Unit

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Paper No: __

CHRISTIAN D. ABEL
ONSAGERS AS
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NORWAY N-013-0 NO NORWAY

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of :
Stellander :
Application No. 10/762,344 : ON PETITION
Filed: 23 January, 2004 :
Attorney Docket No. 115943 :

This is a decision on the papers considered by the Office as a petition filed on 7 October, 2004, under 37 C.F.R. §1.47.

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

For the reasons set forth below, the petition under 37 C.F.R. §1.47 is **DISMISSED**.

BACKGROUND

The record indicates:

- the instant application was filed on 23 January, 2004, without, *inter alia*, a fully executed oath/declaration;
- thereafter Petitioner appears to have submitted the executed oath/declaration on 5 April, 2004, without properly awaiting the mailing/receipt of the Notice of Missing Parts;
- as a result, the executed oath/declaration may not have been matched with the file because on 11 August, 2004, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 7 October, 2004, Petitioner Chrisitan D. Abel (Reg. No. 43,455) filed, *inter alia*, the papers considered as the instant petition, and evidencing that an oath/declaration signed by sole inventor Bernt Stellander (Mr. Stellander) was filed on 5 April, 2004, following the filing of the application on 23 January, 2004.

Petitioner is cautioned that documents not filed with the original application should be filed with the Notice of Missing Parts–and not without a copy of the Notice thereof–to prevent the confusion such as that herein from untimely and/or multiple filings.

Further, it is noted that the Status Inquiry filed by Petitioner on 5 June, 2007, is not with regard to a pending petition, but rather a general inquiry as to the status of examination.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are 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).

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;

In view of the prior filing of an executed oath/declaration of the sole inventor herein, further consideration under Rule 1.47 is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under Rule 1.47.

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot**; no fee is due and none appears to have been charged.

This application is being released to OIPE for further processing as necessary before being returned to substantive examination in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

(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]

[10] The regulations at 37 C.F.R. §1.2 provide:

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

SPE M. Harvey

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 06222006

DATE : 5/16/06

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/262,358 Patent No.: 6977987

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: _____

MINSUN OH HARVEY
PRIMARY EXAMINER

SPE — **Art Unit** 2828

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert B. Conner, Jr.	:	
Application No. 10/762,367	:	DECISION ON PETITION
Filed: January 23, 2004	:	TO WITHDRAW
Attorney Docket No. 4050-0104P	:	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 24, 2006.

The request is **APPROVED**.

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

The request was signed by Joe McKinney Muncy on behalf of all attorneys of record who are associated with Customer No. 02292.

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

All future correspondence will be directed to the first named inventor Robert B. Conner, Jr. at the address indicated below.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Robert B. Conner, Jr.
PO Box 751
Prestonburg, KY 41653

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PO BOX 747
FALLS CHURCH, VA 22040-0747

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert B. Conner, Jr.	:	
Application No. 10/762,367	:	DECISION ON PETITION
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The request was signed by Joe McKinney Muncy on behalf of all attorneys of record who are associated with Customer No. 02292.

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All future correspondence will be directed to the first named inventor Robert B. Conner, Jr. at the address indicated below.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Robert B. Conner, Jr.
PO Box 751
Prestonburg, KY 41653

Mail to

UNITED STATES PATENT AND TRADEMARK OFFICE

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EXPRO METERS, INC.
50 BARNES PARK NORTH
WALINGFORD CT 06492

MAILED

APR 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel L. Gysling, et al.	:	
Application No. 10/762,409	:	NOTICE
Filed: January 21, 2004	:	
Attorney Docket No. CC-0702	:	

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.

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.

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **WARE, FRESOLA, VAN DER SLUYS**
& ADOLPHSON LLP
Bradford Green, Building Five
755 Main Street
P.O. Box 224
Monroe, CT 06468

UNITED STATES PATENT AND TRADEMARK OFFICE

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Robert D. Crawford
CiDRA Corporation
50 Barnes Park North
Wallingford, CT 06492

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AUG 18 2005
OFFICE OF PETITIONS

In re Application of
Daniel L. Gysling, et al.
Application No. 10/762,410
Filed: January 21, 2004
Attorney Docket No.: CC-0703

ON PETITION

This is a decision on the petition, filed July 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 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]

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

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

The application is being referred to Technology Center AU 2855 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,415	01/22/2004	Dale A. Gepfrey	GII 001 P2 US	4545

7590 04/29/2008

Joseph G. Nauman
696 Renolda Woods Ct.
Dayton, OH 45429-3415

EXAMINER
STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
3634	

MAIL DATE	DELIVERY MODE
04/29/2008	PAPER

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

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

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FROM DIRECTORS OFFICE

APR 2 8 2008

TECHNOLOGY CENTER 3600

Joseph G. Nauman
696 Renolda Woods Court
Dayton, OH 45429-3415

In re Application of:	:	
Dale A, Gepfrey et al.	:	**DECISION ON PETITION**
Application No. 10/762,415	:	**UNDER 37 CFR § 1.181**
Filed: January 22, 2004	:	**TO WITHDRAW FINALITY**
For: WATER-TIGHT WINDOWS WITH	:	
PREFORMED CORNERS	:	

This is a decision on applicants' petition under 37 CFR 1.181 filed February 4, 2008 and March 20, 2008 requesting withdrawal of the finality of the Office Action mailed November 28, 2007

The petition is **DISMISSED**.

Applicant stated that the final rejection mailed November 28, 2007 is premature because the examiner has improperly restricted the claims. Applicant further stated the USPTO failed to acknowledge that the application was filed and clearly identified as a submission to enter the national stage under 35 USC 371.

A review of the record determined that applicant inquired on May 26, 2004, as part of his Response to File Missing Parts of Nonprovisional Application filed under 37 CFR 1.53(b), why his filing receipt did not indicate his priority claim since it was a National filing based on a published PCT application. In response, the USPTO on June 7, 2004 mailed applicant a Response to Request for Corrected Filing Receipt informing applicant that the applications to which applicant was claiming priority were filed more than one year prior to the filing date of this application and thus could not be claimed as priority documents.

The review further revealed that the examiner required a restriction under 35 USC 121 between method of making and product made and combination and subcombination product claims. Applicant provisionally elected the combination product claims, and a non-final action on the provisionally-elected claims was mailed April 27, 2006. In response to this non-final action, applicant timely traversed the restriction by arguing that restriction under 35 USC 121 was improper when examining a National Stage application. In response to this traversal, the primary examiner stated that the application was not considered a National Stage application filed under 35 USC 371, and thus the restriction was proper. The examiner made final the restriction and the office action on the provisionally-elected claims, noting that applicant filed the application claiming benefit of PCT/US02/23360 under the provisions of 35 USC 120 (as applicant identified the case on the Declaration filed on May 26, 2004).

Thus the issue to be decided is whether the pending Application is a National Stage Application of PCT/US02/23360 properly filed under 35 USC 371, and thus subject to the Unity Requirement, or whether it is a U.S. Non-Provisional Application filed under 37 CFR 1.53(b) and subject to Restriction Requirements under 35 USC 121.

This issue is decided by the PCT Legal Department, and is not decided by the Director of TC3600.

SUMMARY: For the above reasons, the petition is **DISMISSED.**

The application is being forwarded to the PCT Legal Department for full consideration of the filing status, and applicant will be apprised of their decision and reasoning in writing when a determination on the proper status of the application is made. No further action by applicant is required for this consideration.

As currently presented, the application was properly restricted under 35 USC 121, as the case was not afforded status under 35 USC 371. If the PCT Legal Department determines that the case should not be afforded status under 35 USC 371, then the restriction is proper and the finality is not premature and the petition will be denied. However, if the PCT Legal Department determines that the case should be afforded status as a filing under 35 USC 371, then the petition to withdraw finality based on the 371 status will be considered by the 3600 Technical Center Director and a decision will be mailed to applicant.

Telephone inquiries should be directed to Katherine W. Mitchell, Supervisory Patent Examiner, at (571) 272-7069.

Katherine A. Matecki

Katherine A. Matecki, Director
Patent Technology Center 3600
(571) 272-5250

km/tpl: 4/21/08

1 5 MAY 2008

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Joseph G. Nauman
696 Renolda Woods Ct.
Dayton, OH 45429-3415

In re Application of :
Dale A. Gepfrey *et al* :
Application No.: 10/762,415 :
Filing Date: January 22, 2004 :
Attorney Docket No.: GII 001 P2 US : **DECISION**
For: WATER-TIGHT WINDOWS WITH :
PREFORMED CORNERS :

This decision is in response to applicants' petition under 37 CFR 1.181 filed February 4, 2008.

The sole issue to be decided by this office is whether the above-captioned application should have been treated as a national stage application under 35 U.S.C. 371 of PCT/US2002/023360.

Any intended filing of an international application as a national stage application must clearly be identified as such and must satisfy all the conditions set forth in 35 U.S.C. 371(c). Otherwise, the submission will be considered as being made under 35 U.S.C. 111(a). 37 CFR 1.495(g). In addition, section 1893.03(a) of the Manual of Patent Examining Procedure states, in part:

> In accordance with the notice at 1077 O.G. 13 (14 April 1987) . . . if there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

A review of the subject application shows that the transmittal letter filed with the original submission on January 22, 2004 stated that:

> This is a request for National filing of a U.S. patent application based on International Application Ser. No. PCT/US02/23360 filed 23 July 2002

A request for a "National filing" is an instruction that is applicable to <u>both</u> a filing under 35 U.S.C 111(a) and 35 U.S.C. 371. This instruction is considered conflicting. As such, the papers deposited on January 22, 2002 constitute a filing under 35 U.S.C. 111(a).

Applicant's petition under 37 CFR 1.181 to have the Office consider the subject application a national stage filing under 35 U.S.C. 371 is hereby **<u>DISMISSED</u>**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

This application is being forwarded to Technology Center 3600 for continued processing in accordance with this decision.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ROBERT P. RENKE
28333 TELEGRAPH ROAD, SUITE 250
SOUTHFIELD MI 48034

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AUG 0 8 2007

OFFICE OF PETITIONS

In re Patent No. 7,196,288 :
Issue Date: March 27, 2007 :
Application No. 10/762,426 : ON PETITION
Filed: January 22, 2004 :
Attorney Docket No. WET 0124 PUS :

This is a decision on the communication filed April 3, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the names of the assignees on the front page of the above-identified patent by way of a Certificate of Correction.

The request was accompanied by a certificate of correction as required by 3.81(b). The processing fee and certificate of correction fee are being charged to counsel's deposit account as authorized. Further, Office assignment records reflect that W.E.T. AUTOMOTIVE SYSTEMS AG and HUBER + SUHNER AG are the assignees of record. Accordingly, the request complies with the provisions of 37 CFR 3.81(b), and it would be appropriate for a certificate of correction to be processed to correct the names of the assignees on the front page of the patent.

The request is **GRANTED** to the extent indicated. The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b).

The application is being referred to the Certificate of Correction Branch for further consideration of the other corrections requested in the Certificate of Correction filed April 3, 2007.

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

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

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NEW YORK, NY 10112-3801

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Okamoto :
Application No. 10/762,469 : ON PETITION
Filed: January 23, 2004 :
Attorney Docket No. 00862.023437 :

This decision concerns the June 10, 2004 correspondence captioned "Petition" which is being properly treated as a petition under 37 CFR 1.53 that a drawing be considered part of the above-referenced application; and the concurrently filed "Request for Corrected Official Filing Receipt."

The petition and the request are both **GRANTED.**

The application was filed on January 23, 2004.

On April 26, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item in a Nonprovisional Application" (4/26/04 Notice"), stating that a filing date had been accorded this application, and that a drawing (Figure 6) described in the specification appeared to have been omitted from the filed application. The petition then followed, asserting that the allegedly omitted Figure 6 was filed with the other application papers on January 23, 2004.

The Office has located the drawing for Figure 6 in the application file. The petition is thus granted. The 4/26/04 Notice was mailed in error and is hereby withdrawn.

No petition fee is owed and none was charged to counsel's deposit account.

The application is being returned to OIPE for further processing with a filing date of January 23, 2004, using the papers filed on that date; for indicating in the USPTO record that 6 sheets of drawings (including that for Figure 6) were present on filing; and for mailing of a corrected Filing Receipt reflecting that 6 sheets of drawings are included in this application as filed. Thereafter, the file will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

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

1/23/04

FIG. 1

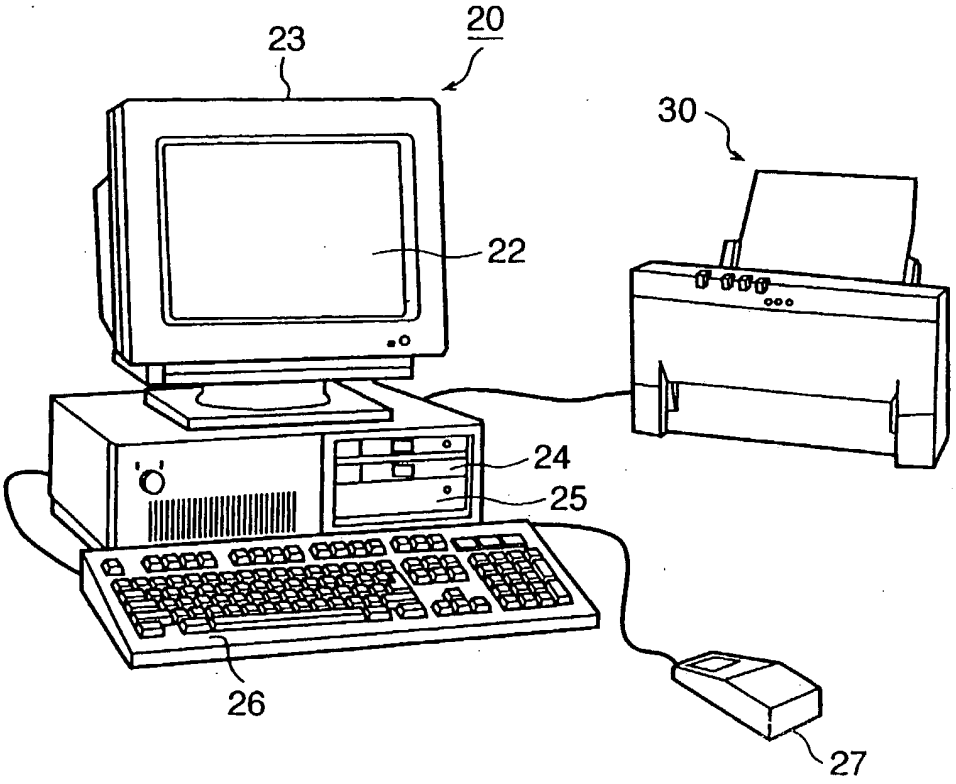

FIG. 2

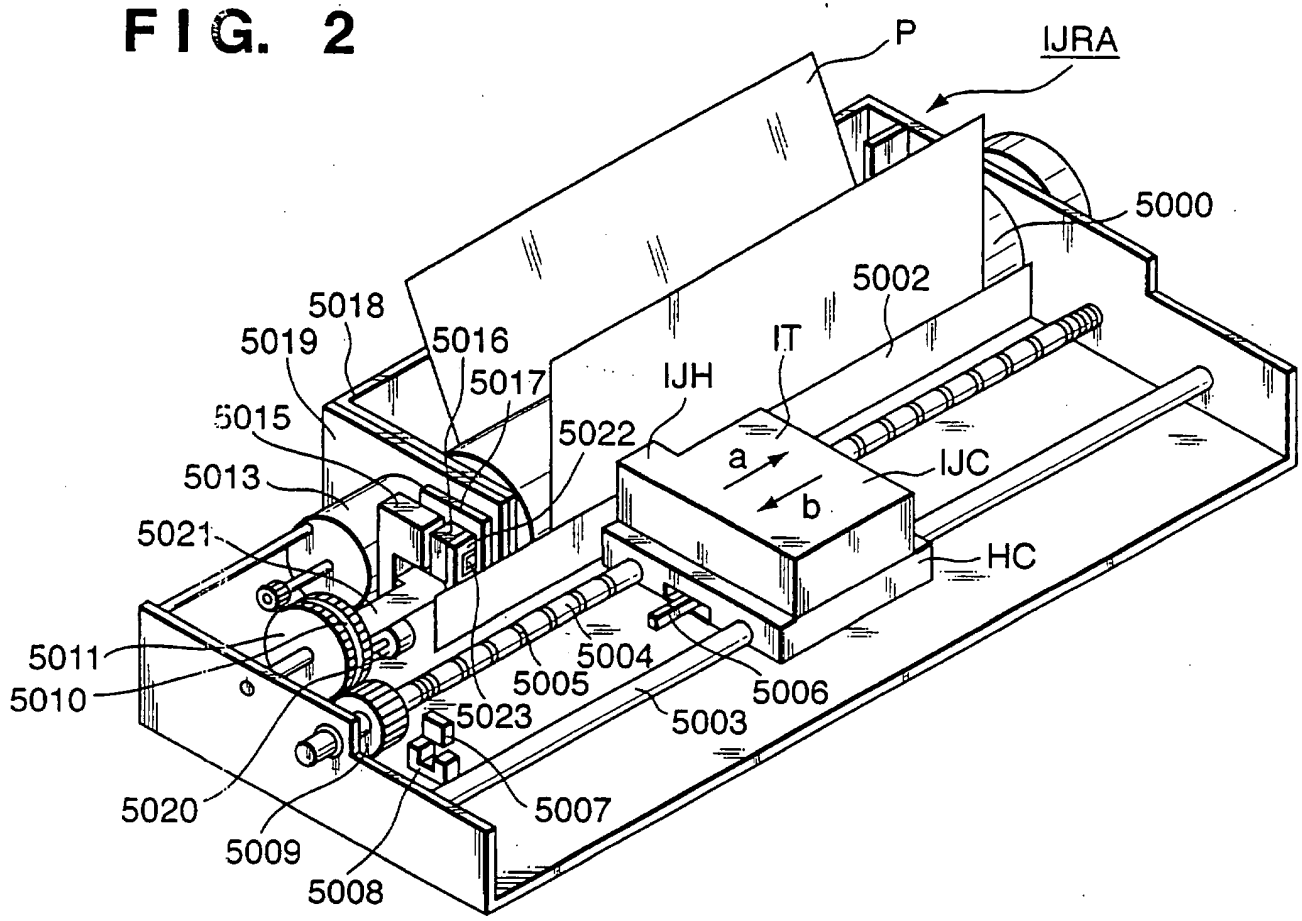
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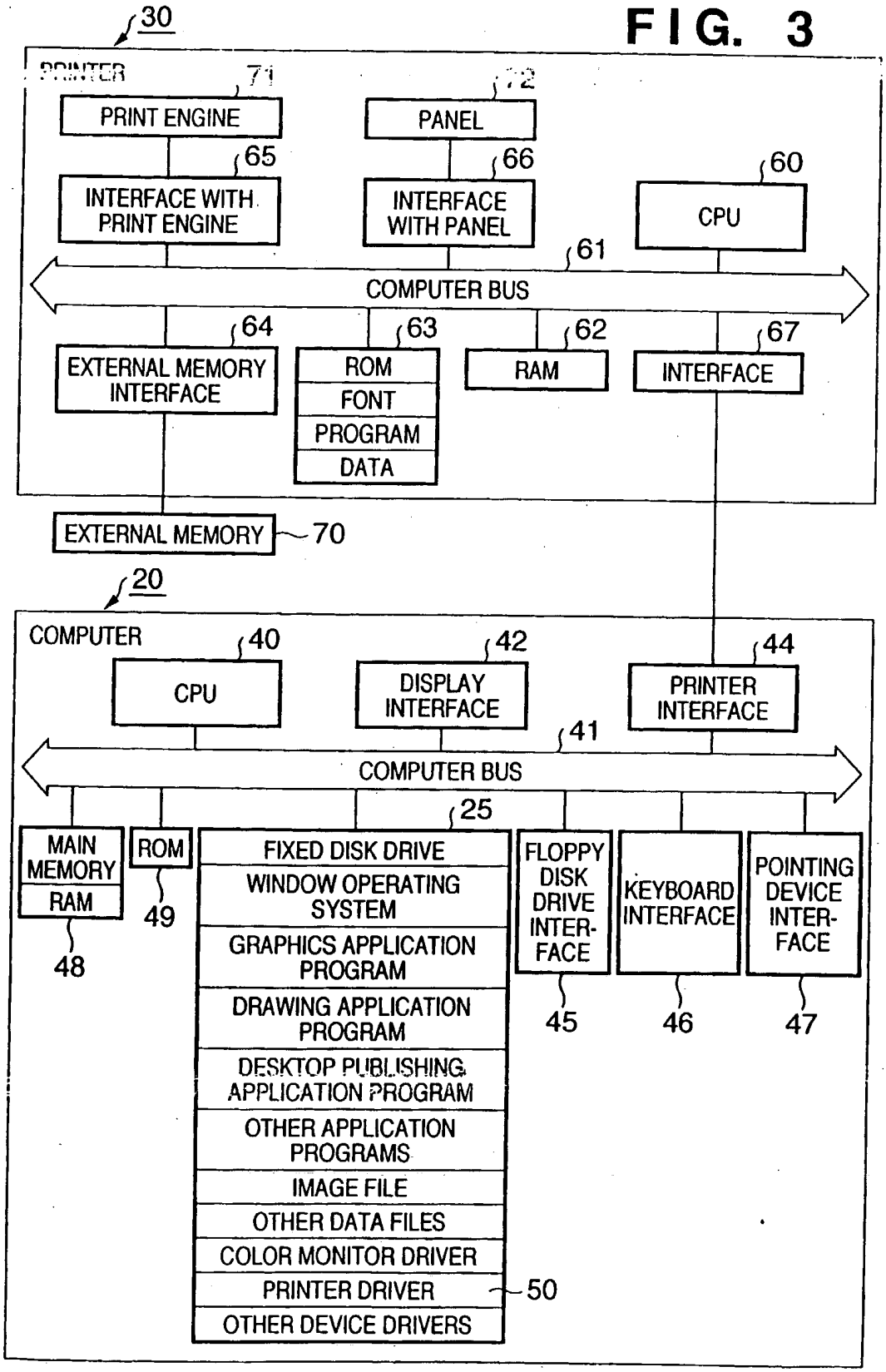
FIG. 3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PRINTER
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COMPUTER BUS
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EXTERNAL MEMORY INTERFACE
63
ROM
FONT
PROGRAM
DATA
62
RAM
67
INTERFACE
EXTERNAL MEMORY
70
20
COMPUTER
40
CPU
42
DISPLAY INTERFACE
44
PRINTER INTERFACE
41
COMPUTER BUS
25
MAIN MEMORY
RAM
48
ROM
49
FIXED DISK DRIVE
WINDOW OPERATING SYSTEM
GRAPHICS APPLICATION PROGRAM
DRAWING APPLICATION PROGRAM
DESKTOP PUBLISHING APPLICATION PROGRAM
OTHER APPLICATION PROGRAMS
IMAGE FILE
OTHER DATA FILES
COLOR MONITOR DRIVER
PRINTER DRIVER
50
OTHER DEVICE DRIVERS
FLOPPY DISK DRIVE INTER-FACE
45
KEYBOARD INTERFACE
46
POINTING DEVICE INTER-FACE
47

FIG. 4

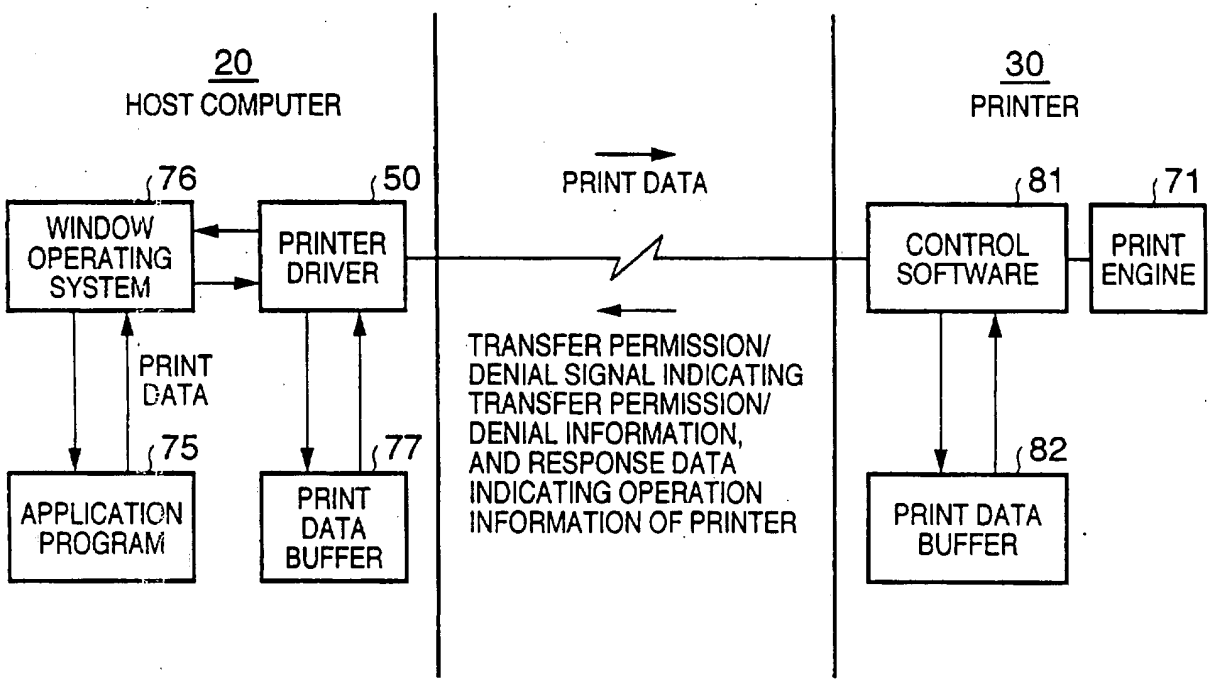

20
HOST COMPUTER
30
PRINTER
76
WINDOW OPERATING SYSTEM
50
PRINTER DRIVER
PRINT DATA
PRINT DATA
75
APPLICATION PROGRAM
77
PRINT DATA BUFFER
TRANSFER PERMISSION/ DENIAL SIGNAL INDICATING TRANSFER PERMISSION/ DENIAL INFORMATION, AND RESPONSE DATA INDICATING OPERATION INFORMATION OF PRINTER
81
CONTROL SOFTWARE
71
PRINT ENGINE
82
PRINT DATA BUFFER

FIG. 5

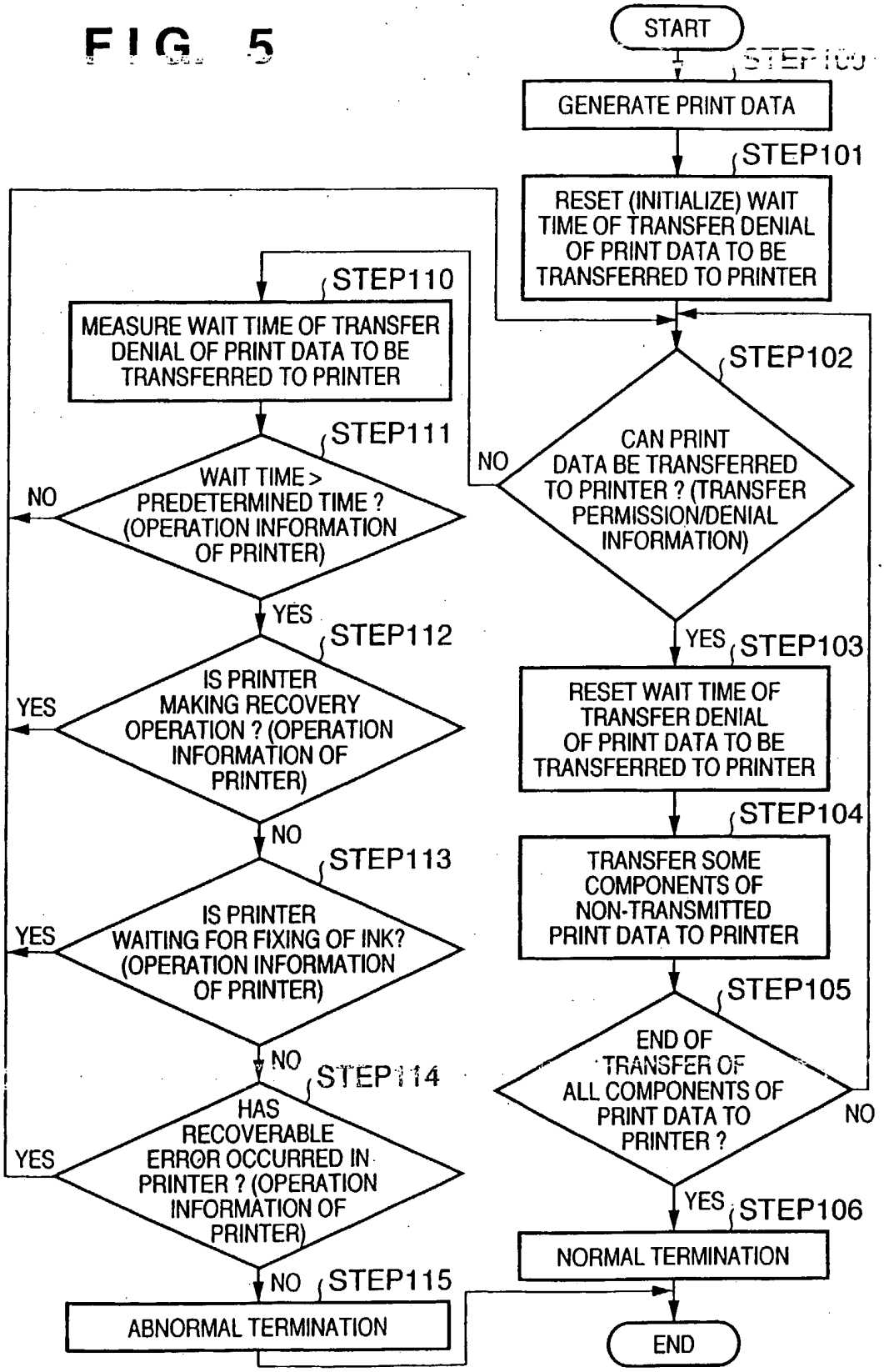
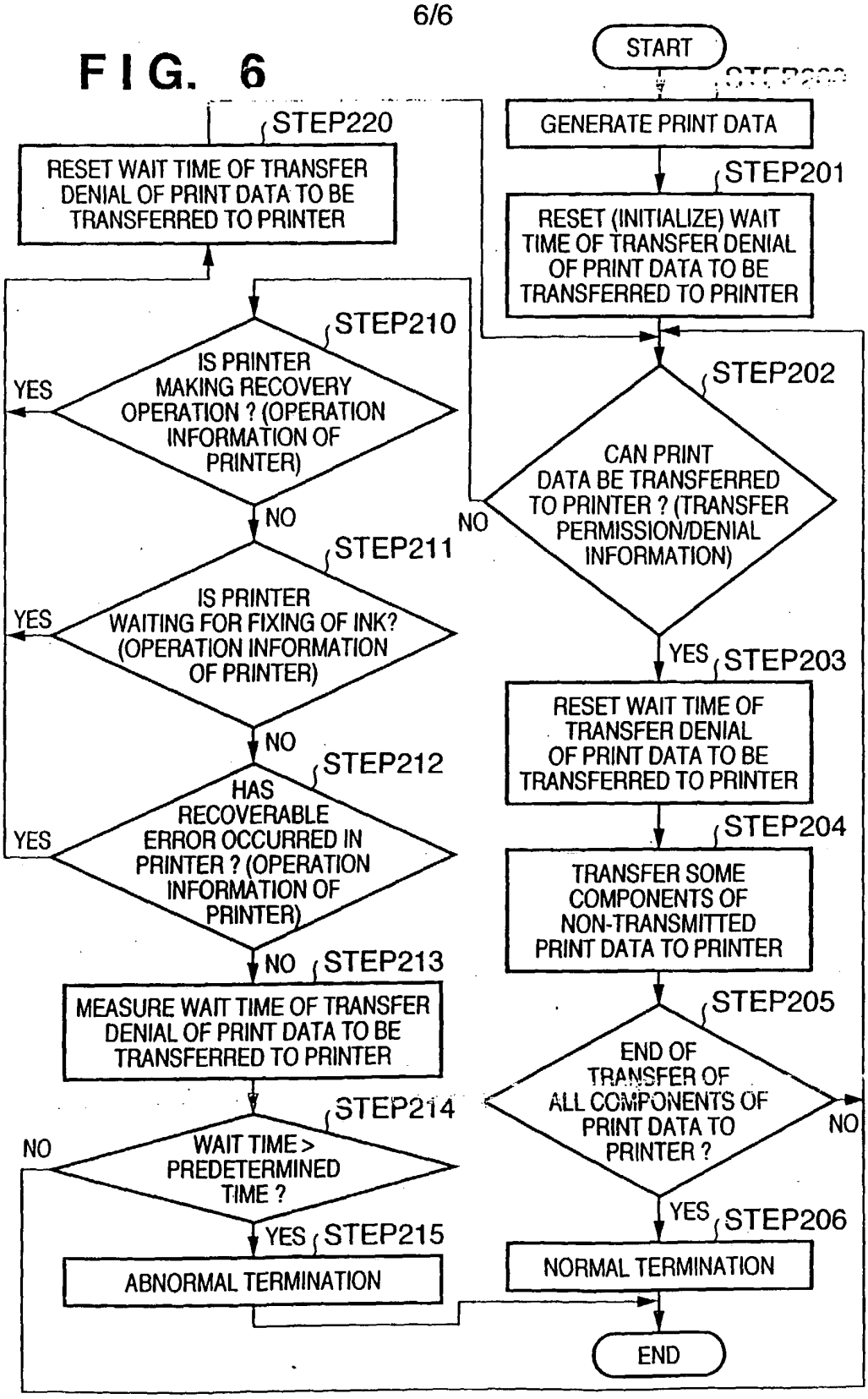

START
STEP100
GENERATE PRINT DATA
STEP101
RESET (INITIALIZE) WAIT TIME OF TRANSFER DENIAL OF PRINT DATA TO BE TRANSFERRED TO PRINTER
STEP102
CAN PRINT DATA BE TRANSFERRED TO PRINTER ? (TRANSFER PERMISSION/DENIAL INFORMATION)
NO
YES
STEP103
RESET WAIT TIME OF TRANSFER DENIAL OF PRINT DATA TO BE TRANSFERRED TO PRINTER
STEP104
TRANSFER SOME COMPONENTS OF NON-TRANSMITTED PRINT DATA TO PRINTER
STEP105
END OF TRANSFER OF ALL COMPONENTS OF PRINT DATA TO PRINTER ?
NO
YES
STEP106
NORMAL TERMINATION
END
STEP110
MEASURE WAIT TIME OF TRANSFER DENIAL OF PRINT DATA TO BE TRANSFERRED TO PRINTER
STEP111
WAIT TIME > PREDETERMINED TIME ? (OPERATION INFORMATION OF PRINTER)
NO
YES
STEP112
IS PRINTER MAKING RECOVERY OPERATION ? (OPERATION INFORMATION OF PRINTER)
YES
NO
STEP113
IS PRINTER WAITING FOR FIXING OF INK? (OPERATION INFORMATION OF PRINTER)
YES
NO
STEP114
HAS RECOVERABLE ERROR OCCURRED IN PRINTER ? (OPERATION INFORMATION OF PRINTER)
YES
NO
STEP115
ABNORMAL TERMINATION

FIG. 6


START
STEP200
GENERATE PRINT DATA
STEP201
RESET (INITIALIZE) WAIT TIME OF TRANSFER DENIAL OF PRINT DATA TO BE TRANSFERRED TO PRINTER
STEP202
CAN PRINT DATA BE TRANSFERRED TO PRINTER ? (TRANSFER PERMISSION/DENIAL INFORMATION)
NO
YES
STEP203
RESET WAIT TIME OF TRANSFER DENIAL OF PRINT DATA TO BE TRANSFERRED TO PRINTER
STEP204
TRANSFER SOME COMPONENTS OF NON-TRANSMITTED PRINT DATA TO PRINTER
STEP205
END OF TRANSFER OF ALL COMPONENTS OF PRINT DATA TO PRINTER ?
NO
YES
STEP206
NORMAL TERMINATION
END
STEP210
IS PRINTER MAKING RECOVERY OPERATION ? (OPERATION INFORMATION OF PRINTER)
YES
NO
STEP211
IS PRINTER WAITING FOR FIXING OF INK? (OPERATION INFORMATION OF PRINTER)
YES
NO
STEP212
HAS RECOVERABLE ERROR OCCURRED IN PRINTER ? (OPERATION INFORMATION OF PRINTER)
YES
NO
STEP213
MEASURE WAIT TIME OF TRANSFER DENIAL OF PRINT DATA TO BE TRANSFERRED TO PRINTER
STEP214
WAIT TIME > PREDETERMINED TIME ?
NO
YES
STEP215
ABNORMAL TERMINATION
STEP220
RESET WAIT TIME OF TRANSFER DENIAL OF PRINT DATA TO BE TRANSFERRED TO PRINTER

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30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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APR 11 2006
OFFICE OF PETITIONS

In re Application of	:
Kazuo Iizuka et al	:
Application No. 10/762,481	: DECISION GRANTING PETITION
Filed: January 23, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 02975.0001131	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 31, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Apr9\762481.wpd

---

[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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Sterne, Kessler, Goldstein & Fox PLLC
1100 New York Avenue, N.W.
Washington DC 20005

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OFFICE OF PETITIONS

In re Application of

Fredric Bloom et al.
Application No. 10/762,492
Filed: January 23, 2004
Attorney Docket No. 2244.0160000

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 7, 2006.

The request is **APPROVED**.

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

The request was signed by Linda E. Horner.

Linda E. Horner has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

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SUITE 800
WASHINGTON, DC 20037

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JUL 21 2004
OFFICE OF PETITIONS

In re Application of :
Gupta et al. :
Application No. 10/762,499 :
Filed: January 23, 2004 : ON PETITION
Attorney Docket Number: :
A8625 :

This is a decision on the Petition Under 37 CFR 1.53(e)(2), filed May 25, 2004, requesting the application be accorded filing date of January 23, 2004, including page 14 of the specification.

The petition is **granted**.

The application was filed on January 23, 2004. However, on April 27, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, noting that a filing date had been accorded the application; however, page 14 of the specification appeared to have been omitted from the application.

In response, Petitioner files the instant petition wherein Petitioner avers that page 14 of the specification was among the 80 pages of specification originally filed with the application on January 23, 2004, and was 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*, 80 pages of specification on January 23, 2004.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 80 pages of specification on January 23, 2004. Petitioner has also re-submitted page 14 of the specification 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 page 14 of the specification, supplied with the instant petition on May 25, 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 23, 2004, and an indication that page 14 of the specification was present among the 80 pages of specification on filing, using page 14 of the specification filed on May 25, 2004.

Applicant is reminded that the oath or declaration and late filing fee, oath or declaration, and the basic filing fee remain due.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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JUN 2 1 2004

John P. Mulgrew
11012 Langton Arms Ct
Oakton VA 22124

In re Application of	:	
David C. Paul et al	:	
Serial No.: 10/762,533	:	DECISION ON PETITION
Filed: January 23, 2004	:	
For: Spine Stabilization System	:	

This is in response to the petition applicant filed on January 23, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

John E. Kittle

John E. Kittle
Director
Technology Center 3700/2900

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Scott A. Elchert
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 8910
Reston, Virginia 20195

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MAY 14 2007

Technology Center 2100

In re Application of:
Sang Woon SUH et al
Appl. No.: 10/762,536
Filed: January 23, 2004
For: RECORDING MEDIUM WITH COPY PROTECTION INDICATING INFORMATION AND APPARATUS AND METHODS FOR FORMING, RECORDING, REPRODUCING AND RESTRICTING REPRODUCTION OF THE RECORDING MEDIUM

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 14 March 2007, to expunge a Preliminary Amendment submitted on 10 November 2006.

The petition is **GRANTED**.

Petitioner requests that the Preliminary Amendment (total of 16 pages) filed on 10 November 2006 be expunged from the record. Petitioner states that this Preliminary Amendment was belonged to another Patent Application. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The expunged materials have been closed from public view and will not be returned to applicant.

It is noted that the instant application has been published on August 26, 2004. Thus, the Preliminary Amendment submitted on November 10, 2006 has already been made available to the public and subject to copying by the public. According, the Office cannot guarantee that the information being closed as a result of this decision was not previously accessed by the public.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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In re Application of	:	
Atsushi Tomita et al	:	
Application No. 10/762,537	:	DECISION GRANTING PETITION
Filed: January 23, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1009683-000496	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 5, 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 December 18, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2622 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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Paper No.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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SEP 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,376,430	:	ON PETITION
Matsuda	:	under 37 CFR 1.183
Issue Date: May 20, 2008	:	and
Application No. 10/762,541	:	ON REQUEST FOR RECONSIDERATION
Filed: January 23, 2004	:	OF PATENT TERM ADJUSTMENT
Atty Docket No. 017344-0328	:	

This is a decision on the 1) Petition for Suspension of Rules, Under 37 C.F.R. 1.183, 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 2) Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705, both filed on November 17, 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 May 20, 2008, the above-identified application matured into U.S. Patent No. 7,376,430, with a revised patent term adjustment

of 677 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 Request for Reconsideration of Patent Term Adjustment. Patentee references a cased decided by the United States District Court for the District of Columbia on September 30, 2008 (Wyeth v. Dudas) as the basis for the petition.

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 May 20, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until November 17, 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 July 20, 2008, the date two months from the date this patent issued, May 20,

2008. Rather, on November 17, 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).

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, authorizes 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.

---

[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.

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 recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008), which issued more than two months and less than six months with respect to the patent issuance date of the above-identified patent.

Petitioner has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that 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.

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. 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), 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.

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 persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen 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. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained nearly four-month delay in filing the petition weighs against them.

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 an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and §1.323 or 35 U.S.C. 255 and §1.324 are not substitute *fora* to obtain to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in §1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in §1.705(d). See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

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 CFR 1.705(d)

This is a decision on the "Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. §1.705," filed November 17, 2008. Therein, patentee requests correction of the patent term

adjustment (PTA) indicated in the patent to one thousand one hundred twenty-two (1122) days.

On May 20, 2008, the above-identified application matured into U.S. Patent No. 7,376,430 with a revised patent term adjustment of 677 days. The instant request for reconsideration was filed more than five months after the issuance of the patent, on November 17, 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.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Nancy Johnson

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Mutsumi Okajima	:	
Application No. 10/762,542	:	DECISION GRANTING PETITION
Filed: January 23, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 247957US2S	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 5, 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 March 16, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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JUL 2 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Yasuhiro Omura	:	
Application No. 10/762,546	:	DECISION DISMISSING PETITION
Filed: January 23, 2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 105202.06	:	

This is a decision on the petition filed June 8, 2004, under 37 C.F.R. §1.55(c) requesting acceptance of an unintentionally delayed claim under 35 USC 119(a) through (d) for the benefit of the filing date of foreign Japanese Application No. 11-173775, filed June 21, 1999.

The petition is **DISMISSED**.

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 must be supplied on an application data sheet in accordance with 37 CFR 1.76 or on the oath or declaration;

(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)(i) 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 is not in compliance with item (2) above.

Accordingly, before the petition under 37 CFR 1.55(c) can be granted, a substitute declaration or a proper ADS in compliance with 37 CFR 1.76 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:

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

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8859.

Karen Creasy

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

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OCT 26 2004

OFFICE OF PETITIONS

In re Application of
Yasuhiro Omura
Application No. 10/762,546
Filed: January 23, 2004
Attorney Docket No. 105202.06

DECISION GRANTING PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the renewed petition filed August 5, 2004, under 37 CFR 1.55(c) requesting acceptance of an unintentionally delayed claim under 35 USC 119(a) through (d) for benefit of the filing date of foreign Japanese Application No. 11-173775, filed June 21, 1999.

A petition for acceptance of a claim for foreign priority under 37 CFR 1.55(c) is only applicable to those applications filed on or after November 29, 2000. Further, the nonprovisional application must be filed within 12 months of the filing date of the foreign application. In addition, a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) must be accompanied by:

> (1) the claim under 35 U.S.C. §119(a)-(d) to the prior foreign application, unless previously submitted;[1]
>
> (2) the surcharge set forth in § 1.17(t); and
>
> (3) a statement that the entire delay between the date the claim was due 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 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

---

[1] The claim must identify in the oath or declaration 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, and the filing date. *Note* also 37 CFR 1.63(c)(2).

or sixteen months from the filing date of the prior foreign application. Therefore, 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).

The above-identified pending nonprovisional application was filed on January 23, 2004, which is after November 29, 2000. Intermediate Application No. 09/377,010, was filed within 12 months of June 21, 1999 (the filing date of the foreign application to which benefit is now being claimed). On July 23, 2004, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,330 was received with the petition on June 8, 2004. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

A filing receipt accompanies this decision on petition.

This application is being referred to Technology Center AU 2872 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a) through (d) and 37 CFR 1.55(c).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

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

ATTACHMENT: Filing Receipt

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4200 TORONTO DOMINION BANK TOWER
BOX 20 TORONTO-DOMINION CENTRE
TORONTO ON M5K -1N6 CA CANADA

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AUG 2 2 2006

OFFICE OF PETITIONS

Applicant: Tang
Appl. No.: 10/762,549
Filing Date: January 23, 2004
Title: MEDIUM, METHOD AND SYSTEM FOR PROVING A TURBINE METER
Attorney Docket No.: 218061.00002
Pub. No.: US 2005/0160784 A1
Pub. Date: July 28, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 6, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors, as claim 13, line 6, "and (e)" should be –and (c)--; line 7 "1 bar<P<SO bar" should be --1 bar<P<50 bar—and claim 21, line 1 "a test median" should be –a test medium--.

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 errors noted by requestor in claim 13, wherein "and (e)" should be –and (c)-- and "1 bar<P<SO bar" should be --1 bar<P<50 bar—and claim 21, wherein "a test median" should be –a test medium-- are not material Office errors under 37 CFR 1.221. The errors noted by requestor with respect to the typographical errors in this published application are due to the poor quality of the text in the application. The text in the specification and claims is not clear and blurry, which may be due to faxing the papers. The quality of the text is poor, as it is small and

[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).

blurry, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52.

Applicant is advised that he may want to file application papers that are clearer, as the errors are due to the quality of the text. Some of the text in the application is small, blurry and not clear, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. 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
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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JUN 12 2008

OFFICE OF PETITIONS

In re Application of :
Kiji : LETTER REGARDING PTA
Application No. 10/762,555 :
Filed: January 23, 2004 :
Atty. Dkt. No.: 016907-1595 :

This letter is in response to the "LETTER (UNDER A GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE)," filed January 22, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed November 28, 2007 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 485 days. Applicants advise that the correct adjustment is 424 days.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 424 days, as indicated by applicants.

As indicated in the Determination of Patent Term Adjustment mailed November 28, 2007, an overall adjustment of 518 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1). The adjustment was properly reduced 33 days in accordance with 37 CFR 1.704(b) in connection with the amendment filed December 26, 2006 in response to the non-final Office action mailed August 23, 2006.

As indicated by applicants, the Office neglected to assess a reduction in connection with the RCE filed August 22, 2007. In accordance with 37 CFR 1.704(b), the adjustment of 518 days is further reduced an additional 61 days. The reduction commenced June 23, 2007, the day after the date that is three months after the date that the final Office action was mailed, and ended August 22, 2007, the date that the RCE was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment 424 days (adjustment for Office delays

totalling 518 days less reductions for applicants delays totalling 94 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Patent Publication for issuance of the patent.

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

Kery A. Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

Day : Wednesday

PALM INTRANET

Date: 6/11/2008
Time: 09:56:02

PTA Calculations for Application: 10/762555			
Application Filing Date:	01/23/2004	PTO Delay (PTO):	518
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	33
Post-Issue Petitions:	0	Total PTA (days):	424
PTO Delay Adjustment:	-61		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
59	06/11/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		61	
45	11/28/2007	MAIL NOTICE OF ALLOWANCE			
44	11/27/2007	ISSUE REVISION COMPLETED			
43	11/27/2007	DOCUMENT VERIFICATION			
42	11/27/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	11/26/2007	NOTICE OF ALLOWABILITY			
40	08/28/2007	DATE FORWARDED TO EXAMINER			
39	08/22/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
38	08/28/2007	DATE FORWARDED TO EXAMINER			
37	08/22/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
36	08/28/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
35	08/22/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
34	03/22/2007	MAIL FINAL REJECTION (PTOL - 326)			
33	03/19/2007	FINAL REJECTION			
32	12/26/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	12/26/2006	REFERENCE CAPTURE ON IDS			
30.7	12/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	28
30	12/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	01/17/2007	DATE FORWARDED TO EXAMINER			
28	12/26/2006	RESPONSE AFTER NON-FINAL ACTION		33	23
		REQUEST FOR EXTENSION OF TIME - GRANTED			

27	12/26/2006				
26	12/18/2006	MISCELLANEOUS INCOMING LETTER			
25	12/22/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
24	12/19/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
23	08/23/2006	MAIL NON-FINAL REJECTION	518		-1
22	08/21/2006	NON-FINAL REJECTION			
21	01/23/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	06/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	02/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	06/21/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	06/08/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	06/08/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	06/24/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
14	01/23/2004	REFERENCE CAPTURE ON IDS			
13.7	01/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	01/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	07/08/2004	APPLICATION RETURN FROM OIPE			
11	07/08/2004	APPLICATION RETURN TO OIPE			
10	07/08/2004	APPLICATION DISPATCHED FROM OIPE			
9	07/08/2004	APPLICATION IS NOW COMPLETE			
8	06/24/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
7	06/24/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	04/27/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	03/09/2004	CLEARED BY OIPE CSR			
3	03/09/2004	CASE CLASSIFIED BY OIPE			
2	02/02/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/23/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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Paper No.

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WASHINGTON DC 20007

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JAN 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Yoshihara et al.	:	LETTER REGARDING
Application No. 10/762,577	:	PATENT TERM ADJUSTMENT
Filed: January 23, 2004	:	
Attorney Docket No.	:	
016886-0190	:	

This letter is in response to the "LETTER (UNDER A GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE)," filed on July 14, 2008. Applicants request that the initial determination of patent term adjustment under 35 USC 154(b) be reduced by one (1) day from nine hundred forty-three (943) days to nine hundred forty-two (942) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) at the time of the mailing of the Notice of Allowance is 942 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 2, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is nine hundred forty-three (943) days. The instant request for review of patent term adjustment was timely filed.[1]

Applicants state that the PTA calculation appears to be longer than appropriate, in that the patent term adjustment should be 942 days rather than 943 days.

[1] PALM Records indicate that the issue fee was paid on July 14, 2008.

A review of the record reveals that Applicants should have been assessed an additional delay of one (1) day. On November 15, 2007, a non-final office action was mailed. On March 11, 2008, three (3) months and 25 days after the mailing of the non-final office action, applicants filed a response. The Office, however, treated the response as filed on March 10, 2008, and assessed a reduction of 24 days of patent term adjustment. The 24 day reduction is being removed, and a 25 days reduction is being entered.

37 CFR 1.704(b) states, in pertinent part that:

> An applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

Therefore, Applicants should have been assessed a reduction in patent term adjustment for the period of delay from February 15, 2008, (three (3) months from the date that the non-final rejection was mailed on November 15, 2007), to March 11, 2008 (the date the reply was filed), or 25 days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is nine hundred forty-two (942) days (967 days of Office delay, reduced by 25 days of Applicant delay).

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: Revised PALM Calculation

Day : Wednesday

PALM INTRANET

Date: 1/7/2009
Time: 18:09:46

PTA Calculations for Application: 10/762577			
Application Filing Date:	01/23/2004	PTO Delay (PTO):	967
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	24
Post-Issue Petitions:	0	Total PTA (days):	942
PTO Delay Adjustment:	-1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
51	01/07/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		25	
50	01/07/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	24		
49.5	07/30/2008	PTA 36 MONTHS			
49	08/19/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
48	07/14/2008	PETITION ENTERED			
47	07/23/2008	EXPORT TO FINAL DATA CAPTURE			
46	07/22/2008	DISPATCH TO FDC			
45	07/17/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
44	07/14/2008	ISSUE FEE PAYMENT VERIFIED			
43	07/14/2008	ISSUE FEE PAYMENT RECEIVED			
42	06/05/2008	FINISHED INITIAL DATA CAPTURE			
40	05/05/2008	EXPORT TO INITIAL DATA CAPTURE			
39	05/02/2008	MAIL NOTICE OF ALLOWANCE			
38	05/01/2008	ISSUE REVISION COMPLETED			
37	05/01/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
36	05/01/2008	DOCUMENT VERIFICATION			
35	04/28/2008	NOTICE OF ALLOWABILITY			
34	04/18/2008	DATE FORWARDED TO EXAMINER			
33	03/10/2008	RESPONSE AFTER NON-FINAL ACTION		24	31
32	03/10/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	11/15/2007	MAIL NON-FINAL REJECTION	967		-1
30	11/13/2007	NON-FINAL REJECTION			
29	06/23/2004	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
26	06/27/2007	CASE DOCKETED TO EXAMINER IN GAU			
25	10/17/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	10/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
23	10/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
22	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	01/27/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	09/25/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	06/23/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
17.7	06/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	06/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	06/23/2004	PRELIMINARY AMENDMENT			
15	09/25/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	07/14/2004	APPLICATION RETURN FROM OIPE			
13	07/14/2004	APPLICATION RETURN TO OIPE			
12	07/14/2004	APPLICATION DISPATCHED FROM OIPE			
11	07/14/2004	APPLICATION IS NOW COMPLETE			
10	06/23/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
9	06/23/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	06/23/2004	TRANSLATION OF CLAIMS INTO ENGLISH			
7	06/23/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
6	06/23/2004	TRANSLATION OF SPECIFICATION INTO ENGLISH			
5	04/27/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	03/22/2004	CLEARED BY L&R (LARS)			
3	03/09/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	01/31/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/23/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/6/07

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 7,141,904

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

SPE

2834
Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,141,904

APPLICATION NO.: 10/762,587

ISSUE DATE : November 28, 2006

INVENTOR(S) : Dan Mirescu

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:

ON THE TITLE PAGE:

Please add:

(22) PCT filed: May 20, 2003

(86) PCT No.: PCT/FR03/01521

§371 (c)(1)
(2), (4) date: Jan. 22, 2004

(30) Foreign Application Data
May 22, 2002 (FR).....02 06 213

IN THE CLAIMS:

Claim 10, Column 6, line 23: "sear" should be --gear--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Carlson, Gaskey & Olds PC
400 West Maple, Suite 350
Birmingham, MI 48009

JAN 1 6 2007

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.

C9C

OIPE IAP78
JAN 0 8 2007
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application No.:	10/762,587	Patent No.:	7,141,904
Filing Date:	January 22, 2004	Issue Date:	November 28, 2006
Applicant:	Dan Mirescu	Group Unit:	2834
Attorney Docket:	60130-2002	Examiner:	Waks, Joseph
For:	GEAR REDUCTION UNIT AND GEARED MOTOR CONNECTOR		

COMMISSIONER OF PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION

Dear Sir:

Enclosed is a Certificate of Correction for the above-identified US Patent.

The errors are not believed to be ours and we do not believe any fee is due at this time. If any fee is due you are hereby authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds. Consideration is respectfully requested.

Certificate
JAN 1 1 2007
of Correction

Respectfully submitted,

CARLSON, GASKEY & OLDS, P.C.

Karin H. Butchko, Reg. No. 45,864
400 West Maple Road, Suite 350
Birmingham, Michigan 48009
(248) 988-8360

Date: January 3, 2007

JAN 1 6 2007

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 3, 2007.

Amy M. Spaulding

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : May 15, 2008

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/762589 Patent No.: 7305244 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: The corrections appear to all be editorial in nature and do not affect the scope of the claims. Hence the examiner allows these changes to be ENTERED.

/ Stephen D'Agosta / 5-15-2008

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WARREN B. KICE
HAYNES AND BOONE LLP
901 MAIN ST STE 3100
DALLAS, TX 75202

COPY MAILED
JUL 12 2006
OFFICE OF PETITIONS

In re Application of	:	
John R. Belcher	:	
Application No. 10/762,597	:	DECISION ON REQUEST
Filed: January 22, 2004	:	TO WITHDRAW
Attorney Docket No. 27644.99	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed January 21, 2005.

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

A review of the file record indicates that the power of attorney to Warren B. Kice and all the attorneys/agents of record associated with Customer No. 000028683 was revoked by the assignee of the patent application on January 24, 2005. Accordingly, the request to withdraw under 37 CFR §1.36(b) is moot.

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

There is no outstanding Office action that requires a reply from applicant.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: JH

cc: KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

Pet. Dec.

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: 3/14/05

DWW
Paper No.

In re Application of Stadler et al.
Serial No.: 10/762,601
Filed: January 22, 2004

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: STABILIZER COMPOSITION FOR THE ROTOMOLDING PROCESS

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed October 14, 2004 to correct inventorship under 37 CFR 1.48(a) by adding the names of James H. Botkin to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

D W Wu

David W. Wu
Supervisory Patent Examiner
Art Unit 1713
Technology Center 1700

Ciba Specialty Chemicals Corporation
Patent Department
540 White Plains Road
Tarrytown, NY 10591-9005

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

PHARMACEUTICAL PATENT ATTORNEYS, LLC
55 MADISON AVENUE
4TH FLOOR
MORRISTOWN, NJ 07960-7397

Mail Date: 04/20/2010

Applicant	: Pravin M. Patel	: DECISION ON REQUEST FOR
Patent Number	: 7378405	: RECALCULATION of PATENT
Issue Date	: 05/27/2008	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/762,652	: OF WYETH
Filed	: 01/22/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF MICHAEL BLAKE
112 BROAD STREET
MILFORD, CT 06460

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of :
Su Chen et al :
Application No. 10/762,657 : DECISION ON PETITION
Filed: January 21, 2004 :
Attorney Docket No. CHEN-0002 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 22, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 23, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on March 24, 2005. A Notice of Abandonment was mailed on September 2, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of December 23, 2004 is accepted as being unintentionally delayed.

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

entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Technology Center AU 1651 for appropriate action in the normal course of business on the reply received December 22, 2006.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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SEP 14 2005

Practitioner's Docket No. ABR-32112 *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: John E. Tadych

Application No.: 10/762,663 Group No.: 1756
Filed: January 22, 2004 Examiner: Unknown
For: Rubber Masking Compound and Methods of Use

CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10

I hereby certify that, on the date shown below, this correspondence is being:

Mailing

■ deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 CFR 1.8(a) **37 CFR 1.10**

■ with sufficient postage as first class mail ☐ As "Express Mail Post Office to Addressee" Mailing Label No.

Transmission

☐ transmitted by facsimile to Fax No.: addressed to Examiner at the Patent and Trademark Office

Date: May 18, 2004 Jill R. Hall 1-571-273-8300

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

"REMINDER"
Retransmitted: 9-14-05
PLEASE RESPOND

ATTENTION: Group Director, Group 1756 (M.P.E.P., section 1002.02(c))

PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE
(37 C.F.R. section 1.102(c) AND M.P.E.P. section 708.02 IV)

Applicant hereby petitions to make this application special because applicant is over 65 years of age.

As a showing of this fact, accompanying this petition is applicant's birth certificate.

No fee is required with this petition, in accordance with 37 C.F.R. section 1.102(c).

Date: May 17, 2004

Alan E. Wagner
Signature of Practitioner

Reg. No.: 45188
Tel. No.: 414-273-2100
Customer No.: 022202

Alan E. Wagner
Whyte Hirschboeck Dudek S.C.
555 East Wells Street, Suite 1900
Milwaukee, WI 53202

DOCKET BY SG 6/20/05
CDC BY _____

(Petition to Make Special Because of Applicant's Age—page 1 of 1)

INITIALS _____

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 SEP 26 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Beyer Law Group LLP
P.O. BOX 1687
Cupertino CA 95015-1687

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DEC 11 2008

In re Application of	:	
Osamu Kobayashi	:	
Application No. 10/762,680	:	ON APPLICATION FOR
Filed: January 21, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. GENSP047	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE 37 C.F.R. § 1.705 filed November 21, 2008. Applicant requests that the determination of patent term adjustment be corrected from six hundred thirty-four (634) days to eight hundred seventy-six (876) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was first filed in this application on November 5, 2007.

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

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson
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

STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON, TX 75006

Mail Date: 04/20/2010

Applicant	: Osamu Kobayashi	: DECISION ON REQUEST FOR
Patent Number	: 7634090	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/762,680	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **832** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE: D. Sample

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/22/07

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/762,702 Patent No.: 7182857

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: _____

DAVID SAMPLE — SPE

1723 — 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

JUL 29 2004

DCM

In re Application of	:	
Edgar N. Rudisill	:	
Serial Number: 10/762,721	:	DECISION
Filed: January 22, 2004	:	ON
For: NONWOVEN FIBROUS SHEET STRUCTURES	:	PETITION

This is a decision on the Petition to Make Special because of Actual Infringement, filed under sections 37 C.F.R. 1.102 and 708.02 II of the MPEP on May 11, 2004, regarding the above-referenced application. The fee required under 37 CFR 1.17(h) has been paid.

The criteria set forth in MPEP 708.02 II has not been met. Specifically, applicant has not filed a statement alleging that there is an infringing device or product actually on the market or method in use; 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 that he or she has made or caused to be made a careful and thorough search of the prior art or has good knowledge of the pertinent prior art. See MPEP 708.02 II, parts (A)-(C).

The application remains in the status of a new application awaiting action in its regular turn. Applicant is 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.

Accordingly the petition is **DENIED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

Rev. 10/93

PATENT
EXPEDITED HANDLING

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:

EDGAR N. RUDISILL ET AL. CASE NO.: SS2910 US CNT1

APPLICATION NO.: 10,762,721 GROUP ART UNIT: 1771

FILED: JANUARY 22, 2004 EXAMINER: NORCA LIZ TORRES VELAZQUEZ

FOR: LOW OR SUB-DENIER NONWOVEN FIBROUS STRUCTURES

PETITION TO MAKE SPECIAL
UNDER MPEP 708.02 II

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NOV 2 3 2004

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

Sir:

The Applicants hereby petition under 37 C.F.R. §1.102(d) to make "special" the above-referenced patent application, pursuant to MPEP 708.02 II, due to actual infringement.

PETITION GRANTED

R Crispino

Richard Crispino
Special Program Examiner
TC 1700 2/7/05

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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PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

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NOV 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Susan M. DANEHOWER et al.	:	
Application No. 10/762,726	:	ON PETITION
Filed: January 22, 2004	:	
Attorney Docket No. PC24990A	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed April 27, 2004, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 28, 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 required fees and oath or declaration; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of April 27, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence to the undersigned at (571) 272-3217.

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

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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OCT 27 2006

OFFICE OF PETITIONS

In re Application of :
Robert C. Meier :
Application No. 10/762,746 : ON PETITION
Filed: January 22, 2004 :
Attorney Docket No. 14420US02 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The application went abandoned for failure to timely pay the issue fee and publication fee on or before the due date of May 30, 2006. The filing of an RCE and submission is not a relief for paying the issue fee since the application went abandoned. Also, the RCE and submission was not filed prior to or on the due date for paying the issue fee. Therefore, the issue fee payment is require.

Petitioner is advised that **upon payment** of the issue fee, the issue fee 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.

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

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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JAN 26 2007

OFFICE OF PETITIONS

In re Application of :
Robert C. Meier :
Application No. 10/762,746 : ON PETITION
Filed: January 22, 2004 :
Attorney Docket No. 14420US02 :

This is a decision on the renewed petition filed December 21, 2006, under 37 CFR 1.137(b), to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee on or before the due date of May 30, 2006.

As to the petition under 37 CFR 1.313(c)(2):

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

Petitioner is advised that the issue fee paid on December 21, 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 may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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

The examiner of Technology Center AU 2612 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of :
Pengfei ZHANG et al. :
Application No. 10/762,781 :
Filed: January 23, 2004 :
Attorney Docket No. **026661-004410US** :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed July 03, 2006 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 04, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Accordingly, the reply to the restriction requirement of July 03, 2006 is accepted as having been unintentionally delayed.

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

Petitioner, Michael L. Gencarella from Martine Penilla & Gencarella, LLP submitted $1080 for an extension of time.

Application No. 10/762,781

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $ 1080 extension of time fee submitted with the petition on February 13, 2007 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

The Statement Under 37 CFR 3.73 (b) was not signed in compliance with 37 CFR 1.4 (d) (2) (ii), which requires the practitioner must supply his/her registration number either as part of the s-signature or immediately below or adjacent to the s-signature. Please provide a corrected statement in accordance with the rules.

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

The application file is being referred to Technology Center AU 2825 for appropriate action on the concurrently filed election and amendment.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **MICHAEL L. GENCARELLA, LLP**
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 25920

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 2 2004

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

In re Application of :
Kamen G. Kamenov : DECISION ON PETITION
Application No. 10/762,783 :
Filed: January 23, 2004 :
For: Rotary Internal Combustion Engine
With Adjustable Compression Stroke

This is a decision on the petition to make special filed on May 24, 2004. The petition is based upon the practice described in MPEP § 708.02(V) "Environmental Quality" and MPEP § 708.02(VI) "Energy." Therefore, no petition fee is required.

The petition is granted.

The petition to make special based upon the practice in MPEP § 708.02(VI) is deemed to satisfy all of the requirements therefore. Accordingly, the examiner will treat this application as special throughout its prosecution. 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 3748 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

Kamen George Kamenov
2470 Fulton St. #5
San Francisco, CA 94118

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Pengfei Zhang, et. al.	:	
Application No. 10/762,791	:	ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. 026661-004310US	:	

This is a decision on the petition under 37 CFR 1.137(b), on February 12, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Restriction/Election Requirement mailed July 3, 2006. A Notice of Abandonment was mailed on January 22, 2007.

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.

Further, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature of Michael L. Gencarella appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Gencarella 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) an election; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2825, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Michael L. Gencarella
Martine Penilla & Gencarella, LLP
710 Lakeway Dr., Suite 200
Sunnyvale, CA 94085

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
10/762,803	01/20/2004	2635	856	087828-0209	9	18	4

CONFIRMATION NO. 5396

CORRECTED FILING RECEIPT

OC000000013843234

23392
FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES, CA 90067

Date Mailed: 09/22/2004

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

Applicant(s)

Kosuke Haruki, Tokyo, JAPAN;

Assignment For Published Patent Application

KABUSHIKI KAISHA TOSHIBA

Power of Attorney: The patent practitioners associated with Customer Number **23392**.

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN P2003-10860 01/20/2003

If Required, Foreign Filing License Granted: 04/27/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/762,803

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Electronic apparatus and remote controller

Preliminary Class

340

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

GRANTED

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

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

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

NOT GRANTED

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

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ALEXANDRIA, VA 22313-1450
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JJGJr: 03-05

Paper No: __

MARVIN E. JACOBS
KOPPEL & JACOBS
SUITE 215
2151 ALESSANDRO DRIVE
VENTURA CA 93001

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MAR 08 2005

OFFICE OF PETITIONS

In re Application of	:
Sanders	:
Application No. 10/762,806	: DECISION ON PETITION
Filed: 21 January, 2004	:
Attorney Docket No. 636-20-017	:

This is a decision on the petition, filed 29 November, 2004, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on 21 January, 2004. Moreover, Petitioner submitted the instant petition (recision request inherent) on 29 November, 2004, upon learning of the error.

Thus, Petitioner alleges unintentional failure to notify the U.S. Patent and Trademark Office of this filing of the subject application in a foreign country within 45 days of that filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §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 C.F.R. §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 C.F.R. §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 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request, which sets forth the projected publication date of 16 June, 2005, accompanies this decision.

This application is being released to Technology Center 3600 for further processing in due course.

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

John J. Gillon, Jr.
Senior 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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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: David Bau	: DECISION ON REQUEST FOR
Patent Number	: 7650591	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/762,814	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **739** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/20/2010

Applicant	: Jan Weber	: DECISION ON REQUEST FOR
Patent Number	: 7632299	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/762,815	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1278** 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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NOV 0 9 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
BROWN, STEPHEN F., et al.
Application No. 10/762,829
Filed: January 21, 2004
For:

METHOD AND APPARATUS FOR HANDLING VIDEO COMMUNICATION ERRORS

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 28, 2006 (Certificate of Mailing dated August 23, 2006) under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG & WOESSNER/SAP
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/21/2010

Applicant	: Georg C. Becker	: DECISION ON REQUEST FOR
Patent Number	: 7640594	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/762,834	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1038** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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DIW Nov-05

CEDORA RUIZ
131 DAHLIA STREET
CASPER WY 82064

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NOV 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Cedora Ruiz	:	DECISION ON PETITION
Application No. 10/762,843	:	TO WITHDRAW HOLDING OF
Filed: 21 January, 2004	:	ABANDONMENT
Atty Docket No. RUIZ.0003P	:	

This is a decision on the petition, filed on 25 July, 2005, to withdraw the holding of abandonment in the above-identified application.

The petition is **granted**.

This application was held abandoned for failure to timely and effectively respond to the non-final Office action mailed on 7 January, 2005, which set a three (3) month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on 12 July, 2005.

Petitioner asserts that a timely response was filed. In support, petitioners have supplied a copy of the reply, consisting of an amendment and a three (3) month extension of time. The response contains a certificate of mailing dated 5 July, 2005.

A review of the official file reveals that on 7 July, 2005, an amendment and three (3) month extension of time were timely received. Additionally, the amendment bears a valid certificate of mailing dated 5 July, 2005. As such, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

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

The address on the petition is different than the correspondence address of record. A copy of this decision is being mailed to

the address listed in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application file is being forwarded to Technology Center Art Unit 3751 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

cc: R. Scott Weide
Weide & Miller, Ltd.
7251 W. Lake Mead Blvd., Suite 350
Las Vegas NV 89128

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
SEP 22 2008

In re Application of :
Henry Falk et al :
Application No. 10/762,852 : ON PETITION
Filed: January 22, 2004 :
Attorney Docket No. SIRF.P244 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 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 pay the issue and publication fees on or before January 5, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 5, 2006, which set a statutory period for reply of three (3) months. This petition can not be granted until the Issue fee payment is received. Accordingly, the application became abandoned on January 6, 2007.

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

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) 272-3210.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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THE ECLIPSE GROUP LLP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

COPY MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Henry Falk et al	:	
Application No. 10/762,852	:	ON PETITION
Filed: January 22, 2004	:	
Attorney Docket No. SIRF.P244	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 22, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely pay the issue and publication fees on or before January 5, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 5, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 6, 2007.

The Request for Continued Examination (RCE) must be filed prior to the date of abandonment. Office record show the (RCE) was received with the petition on May 20, 2008 which is after the January 6, 2007 abandoned date. This petition can not be granted until the Issue fee and publication fee are received.

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) 272-3210.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUL 16 2009

OFFICE OF PETITIONS

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

In re Application of
Henry Falk et al
Application No. 10/762,852
Filed: January 22, 2004
Attorney Docket No. SIRF.P244

ON PETITION

This is a decision on the renewed petition filed June 4, 2009 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the issue fee 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 $490 extension of time submitted on January 22, 2009 and $490 extension of time submitted on June 4, 2009 were subsequent to the maximum extendable period for reply, these fees are unnecessary and will be credited to petitioner's credit card.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

COPY MAILED

FEB 29 2008

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of :
Gregory G. Rose :
Application No. 10/762,857 : ON PETITION
Filed: January 21, 2004 :
Attorney Docket No.: PA744C2

This is a decision on the petition filed December 18, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

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

This application became abandoned May 9, 2007 for failure to timely pay the issue fee on or before May 8, 2007. Accordingly, a Notice of Abandonment was mailed June 8, 2007.

The issue fee in the amount of $1540, the publication fee in the amount of $300 and the petition fee in the amount of $1440 have all been applied.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

MAILED

JAN 11 2006

TECHNOLOGY CENTER 2100

In re Application of: Elliot A. Gottfurcht
Application No. 10/762,869
Filed: January 21, 2004
For: APPARATUS AND METHOD FOR SIMPLE WIDE-AREA NETWORK NAVIGATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed December 9, 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 is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) 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 U.S. Patent and Trademark Office (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 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: STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE
c/o SCOTT W. DOYLE, ESQ.
WASHINGTON, DC 20036

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 31, 2009

TO SPE OF : ART UNIT ~~1724~~ 1797

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/762886/7169214

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: _____

_____

_____

_____

_____

SPE

1797
Art Unit

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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SIMPSON & SIMPSON, PLLC
5555 MAIN STREET
WILLIAMSVILLE, NY 14221-5406

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OCT 1 9 2005
OFFICE OF PETITIONS

In re Application of	:	
Markus Baehr	:	
Application No. 10/762,929	:	DECISION ON PETITION
Filed: January 22, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. LUKP:105US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 27, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed International Application No. PCT/DE02/02647 filed July 18, 2002.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is applicable to those applications filed on or after November 29, 2000 and is appropriate 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) above.

The "amendment" submitted with the petition is unacceptable as drafted and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52

states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Additionally, petitioner is advised that the reference to the foreign application is more appropriately made in an oath or declaration or in an Application Data Sheet, not as an amendment to the first line of the specification.

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 an appropriate amendment[1] are required.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Sherry Brinkley at (571) 272-3204.

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

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

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE CA 94550

COPY MAILED

JAN 17 2007

OFFICE OF PETITIONS

In re Application of	:
Chen, Ben Wei.	:
Application No. 10/762,934	: DECISION ON PETITION
Filed: January 21, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 3035P (SUP-036)	:

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

A reference to add the prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), 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
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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LIVERMORE CA 94550

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MAY 07 2007

OFFICE OF PETITIONS

In re Application of	:
Chen, Ben Wei	:
Application No. 10/762,934	: DECISION GRANTING PETITION
Filed: January 21, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 3035P (SUP-036)	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 6, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/002,652, filed October 19, 2001, 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 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 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 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 the undersigned at (571) 272-3206.

This application is being forwarded to Technology Center Art Unit 2111 for appropriate action.

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
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/762,934	01/21/2004	2111	421	3035P (SUP-036)	24	3

CONFIRMATION NO. 5756
CORRECTED FILING RECEIPT
OC000000023686003
OC000000023686003

22888
BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE, CA 94550

Date Mailed: 05/04/2007

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)

Ben Wei Chen, Fremont, CA;

Power of Attorney: The patent practitioners associated with Customer Number **022888**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/002,652 10/19/2001 PAT 7,103,765

Foreign Applications

If Required, Foreign Filing License Granted: 04/27/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/762,934

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and system for providing a modular server on USB flash storage

Preliminary Class

710

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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Alexander G. MacInnis	: DECISION ON REQUEST FOR
Patent Number	: 7598962	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/762,937	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **257** 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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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Alexander J. Somogyi	: DECISION ON REQUEST FOR
Patent Number	: 7640535	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/762,944	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1471** 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 P. SIMPSON
SIMPSON & SIMPSON
5555 MAIN STREET
WILLIAMSVILLE NY 14221-5406

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OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of	:
Martin Vornehm et al	: DECISION ON PETITION
Application No. 10/762,946	: UNDER 37 CFR 1.78(a)(3)
Filed: January 22, 2004	:
Attorney Docket No. LUKP:103US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 27, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c)) for the benefit of prior-filed PCT Application No. PCT/DE02/02650, filed July 18, 2002.

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 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. While the petition did state the relationship of the PCT application to the instant application, **a separate paper for the amendment in compliance with 1.4(c) is required. Additionally, the priority data for the foreign application should not be included with the benefit claim under § 120 reference to be amended. Furthermore, the foreign priority data have been included in the previously filed declarations.**

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 addressing the above is required.

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

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

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

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

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

Karen Creasy

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

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JAN 18 2008

ROGER A. GILCREST
250 WEST STREET
COLUMBUS OH 43216-7513

In re Application of	:
Robert Vincent	:
Serial No.: 10/762,952	: PETITION DECISION
Filed: January 22, 2004	:
Attorney Docket No.: BOW1335-047	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed December 14, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee of $130.00 under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0584or by facsimile transmission at 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

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OFFICE OF PETITIONS

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 300
Mclean, VA 22102

In re Application of

Elliot A. Gottfurcht
Application No. 10/762,953
Filed: January 21, 2004
Attorney Docket No. 4346POOL1XC

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 December 19, 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, **this request is being made as the request of MallTV**, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Steptoe & Johnson LLP
c/o Scott W. Doyle, Esq.
1330 Connecticut Avenue, N.W.
Washington D.C. 20036

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WEINGARTEN, SCHURGIN, GAGNEBIN & HAYES LLP
Ten Post Office Square
Boston, MA 02109

Mail Date: 04/26/2010

Applicant	: Kevin Tait	: DECISION ON REQUEST FOR
Patent Number	: 7591998	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/762,964	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **682** 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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JOHN W. WUSTENBERG
P.O. BOX 1431
DUNCAN OK 73536

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OFFICE OF PETITIONS

In re Application of	:
Mese, Soliman, and Robison	: DECISION REFUSING STATUS
Application No. 10/762,970	: UNDER 37 CFR 1.47(a)
Filed: 22 January, 2004	:
Atty Docket No. 30545.79	:

This is in response to the petition filed under 37 CFR 1.47(a) on 13 October, 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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 22 January, 2004, without an executed oath or declaration.

Accordingly, on 27 April, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Application, requiring an executed oath or declaration and a surcharge for its late filing. A two (2)-month period for reply was set.

In response, on 13 October, 2004, the present petition was filed, along with a four (4) month extension of time and a declaration naming Ali Mese, Mohamed Y. Soliman, and Clark Robison as joint inventors and signed by joint inventors Solimon and Robison on behalf of themselves and joint inventor Mese.

Petitioners assert that a copy of the application was sent to joint inventor Mese, but that he refused to sign the declaration. In support, petitioners have provided a copy of the cover letter transmitting the application papers to non-signing joint inventor Mese, as well as a file memorandum of a telephone conversation between registered patent attorney John W. Wustenberg and non-signing joint inventor Mese on 14 June, 2004, during which the non-signing inventor refused to sign the declaration.

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

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

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

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

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

The petition lacks item (2).

In regards to item (2), above, the declaration filed with the renewed petition does not meet the requirements of 37 CFR 1.63 because it contains uninitialed/undated alterations.[1] Specifically, there are uninitialed/undated alterations in the signature block for joint inventor Soliman. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, listing the residence, mailing address, and citizenship of all of the inventors and signed by the inventor to whom the corrections pertain (*i.e.*, joint inventor Soliman) must be provided with any renewed petition.

---

[1] See 37 CFR 1.52(c).

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Kin-Wah Tong
Moser, Patterson & Sheridan, LLP
Suite 100
595 Shrewsbury Avenue
Shrewsbury NJ 07702

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OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application No. 10/762972	:	
Filing or 371(c) Date: 01/22/2004	:	ON PETITION
Attorney Docket Number: MOTO	:	
BCS03214	:	

This is a decision on the petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2007. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed November 2, 2006. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on February 3, 2007. A Notice of Abandonment was mailed June 21, 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 the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to Technology Center Art Unit 2623 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

CC: THOMAS BETHEA, JR.
MOTOROLA CONNECTED HOME SOLUTIONS
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

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DOCKET NO.: PH-7033A(BMS-2507) PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Lewis, et al. Confirmation No.: 5994

Application No.: 10/762,990 Group Art Unit: 1754

Filing Date: January 22, 2004 Customer No.: 23914

OFFICIAL

For: METHOD AND APPARATUS FOR SEPARATING IONS OF METALLIC ELEMENTS IN AQUEOUS SOLUTIONS

NOV 3 0 2004

Approved Smotrel
JACQUELINE M. STONE
DIRECTOR
TECHNOLOGY CENTER 1700

MAIL STOP PATENT APPLICATION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

WITHDRAWAL AS ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

The attorneys associated with the customer number listed below apply to withdraw in the above identified application. The reasons for this request are that the client has changed the prosecution responsibility to in-house counsel.

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to Customer No. 23914.

This request is made on behalf of myself and

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s).

☒ the attorneys/agents associated with Customer Number 23377.

This request is enclosed in triplicate (including any attachments).

Date: 8/6/04

Suzanne E. Miller
Registration No. 32,279

Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439

PAGE 2/4 * RCVD AT 8/6/2004 12:34:05 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:+2155683439 * DURATION (mm-ss):01-12

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Anderson Gorecki & Manaras LLP
33 NAGOG PARK
ACTON, MA 01720

Mail Date: 05/13/2010

Applicant	: Peter Ashwood Smith	: DECISION ON REQUEST FOR
Patent Number	: 7664123	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/763,015	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1732** 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

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JAN 2 7 2005

Technology Center 2100

In re Application of:	)	
Elliot A. Gottfurcht, et al.	)	DECISION ON PETITION TO MAKE
Application No.: 10/763,017	)	SPECIAL UNDER 37 C.F.R. §1.102(c)
Filed: January 21, 2004	)	AND MPEP § 708.02 (IV):
For: NAVIGATING WEB CONTENT WITH A SIMPLIFIED INTERFACE USING DIRECTIONAL INPUT	)	APPLICANT'S AGE

This is a decision on the petition, filed January 05,2005, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes declaration by Elliot A. Gottfurcht, one of the applicants, asserting that declarant/applicant is sixty five (65) years of age or more.

Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution and to consider the change of inventorship.

for

Vincent N. Trans
Special Program Examiner 1/19/05
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

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MAR 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Gottfurcht et al.	:	DECISION ON PETITION
Application No. 10/763,017	:	TO WITHDRAW
Filed: January 21, 2004	:	FROM RECORD
Attorney Docket No. 578962000104	:	

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

The request is **APPROVED**.

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

The request was signed by Thomas E. Ciotti on behalf of all attorneys of record who are associated with Customer Number 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record has changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed December 14, 2005 that requires a reply from the applicants.

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.

Dina Pothier for

David Bucci
Petitions Examiner
Office of Petitions

Cc: STEPTOE & JOHNSON, LLP
c/o SCOTT W. DOYLE, ESQ.
1330 CONNECTICUT AVENUE, NW
WASHINGTON DC 20036

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1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

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OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Schwartz et al.	:	
Application No. 10/763,037	:	
Filed: January 22, 2004	:	
Attorney Docket No. HO-P02659US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 4, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 1600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

Mail Date: 04/20/2010

Applicant	: Robert J. Schwartz	: DECISION ON REQUEST FOR
Patent Number	: 7582478	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/763,037	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **574** 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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Thompson Hine LLP
2000 Courthouse Plaza NE
10 West Second Street
Dayton Ohio 45402-1758

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MAR 03 2005

OFFICE OF PETITIONS

In re Application of:	:
Lipp	:
Application No. 10/763,040	: ON PETITION
Filed: May 28, 2004	:
Docket No.: 424473.00018	:
	:

The above-identified application has been referred to this office to treat the petition to expunge under 37 CFR 1.59 filed May 28, 2004.

The petition is **granted**.

Petitioner request that the IDS containing the unintentionally submitted specification of a provisional application of another be expunged to avoid the irreparably harmful disclosure of that invention.

It is agreed that it would be appropriate in this instance to close the IDS and provisional specification entry in this file, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW). In a paper file the page(s) or document would have been physically removed from the file wrapper; in the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Public[ly available] Documents."

It is noted that petitioner agreed to maintain the material in question during the enforceable life of any ensuing patent claiming benefit of this application.

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner for
Patent Examination Policy

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COLUMBUS, OH 43201

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OFFICE OF PETITIONS

In re Application of
Brian A. Lipp
Application No. 10/763,040
Filed: January 21, 2004
Attorney Docket No. 35056-512

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 13, 2009.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before July 6, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed April 3, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 4, 2009. On July 13, 2009 the present petition was filed. A Notice of Abandonment was subsequently mailed on July 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

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

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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JUN 20 2005

DERGOSITS & NOAH LLP
FOUR EMBARCADERO CENTER, SUITE 1450
SAN FRANCISCO, CA 94111

In re Application of HAWKES, GRAHAM Appl. No.: 10/763,041 Filed: January 22, 2004 For: SUBMERSIBLE	**WITHDRAWAL FROM ISSUE** *37 CFR 1.313*

The above-identified application is withdrawn from issue to permit re-opening of prosecution. See 37 CFR 1.313.

The above-identified application is hereby **withdrawn from issue**.

Subsequent to the mailing of the Notice of Allowability, a new issue was discovered that was believed to pose a significant bearing on the patentability of at least one claim pending in the allowed application. The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquiries regarding this notice should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684. Telephone inquiries regarding the status of the claims and other examination on the merits issues should be directed to the examiner of record, Lars Olson, at (571) 272-6685.

Robert J. Oberleitner
Director, Patent Technology Center 3600

SJM: 6/17/05

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Boston MA 02109

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FEB 22 2005

OFFICE OF PETITIONS

In re Application of
Oettinger, et al.
Application No. 10/763,051
Filed: September 30, 2004
Attorney Docket No. 2003627-0006
For: INTEGRATED X-RAY SOURCE MODULE

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed January 14, 2005 (certificate of mailing date January 12, 2005), requesting that the application be accorded a filing date of January 22, 2004.

The current petition fee for filing a petition under 37 CFR 1.182 is $400.00. Petitioner paid only $130.00. Accordingly, deposit account no. 03-1721 was charged the balance due, or $270.00.

The petition is **GRANTED** to the extent described below.

The application was filed on January 22, 2004. However, on April 29, 2004, The Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) stating, *inter alia*, that the application had been accorded a filing date of January 22, 2004, and advising applicants that figures 5C, 5D, and 5E appeared to have been omitted.

In response, on September 30, 2004 (certificate of mailing date September 28, 2004) petitioners filed, *inter alia*, formal drawings that included Figures 5C, 5D, and 5E.

The Office processed these drawings and accorded the application a filing date of September 30, 2004.

Petitioners request reinstatement of the January 22, 2004 filing date and argue that the omitted drawings submitted on September 30, 2004 should be considered part of the original application papers, because (1) they are not new matter and (2) they were originally filed in prior application No. 10/370,783, the entire disclosure of which was incorporated by reference into the present application at the time of the present application's filing.

The mailing of the Notice permits applicants 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. Applicants asserting that the missing items were in fact deposited in the USPTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. Applicants 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, on September 30, 2004 (certificate of mailing date September 28, 2004) petitioners neither asserted that the missing drawings were actually deposited in the USPTO on January 22, 2004 with the other application papers nor requested a later filing date. They merely filed the figures.

Petitioners wish to retain the January 22, 2004 filing date for the above-identified application. This is possible only if Figures 5C, 5D, and 5E are added to the application **after** the filing date issue has been resolved.

Additional figures may be entered by the primary examiner without a petition so long as the pages contain no new matter. See MPEP § 608.02(a).

MPEP 201.06(c) states that:

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

If applicants desire that figures 5C, 5D, and 5E be added to the application, the appropriate procedure is by way of amendment requesting the entry of the figures. Any such amendment should be filed prior to the first action on the merits and will be considered by the examiner.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **January 22, 2004**. Drawing figures 5C, 5D, and 5E filed on September 30, 2004 will not be considered part of the original application papers. Only the papers filed on

January 22, 2004 constitute the original application papers.

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

E Shirene Willis

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

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Paper No.

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED

JUN 30 2010

OFFICE OF PETITIONS

In re Application of :
Peng et al. :
Application No. 10/763,068 : LETTER REGARDING
Filed: January 22, 2004 : PATENT TERM ADJUSTMENT
Docket No. 40715-296579 :
Title: MONODISPERSE CORE/SHELL AND :
OTHER COMPLEX STRUCTURED :
NANOCRYSTALS AND METHODS OF :
PREPARING THE SAME :

This is in response to the "Petition Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance" filed March 8, 2010. Applicants request that the determination of patent term adjustment be increased by three hundred (300) days to three hundred (300) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, Applicants imply that one period of applicant delay should be changed from 57 days to 58 days.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not

undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, Applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

To the extent that Applicants otherwise request reconsideration of the patent term adjustment at the time of the mailing of the

---

[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.

notice of allowance, the request is **GRANTED to the extent indicated herein**.

The Office has updated the PALM screen to reflect the change in one period of Applicant delay. The Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance remains zero days (366 days of Office delay less 490 days of Applicant delay). A copy of the updated PALM screen, showing the correct determination, is enclosed.

Applicants state that any patent issuing from the application is not subject to a terminal disclaimer.[2]

On February 16, 2010, 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 is 0 days. On March 8, 2010, Applicants submitted the instant comment. Applicants have implied that the PTA Calculations in PAIR incorrectly calculates one period of Applicant delay.

A review of the application history reveals that Applicants are correct.

Specifically, pursuant to 37 C.F.R. § 1.704(b), the failure to reply to an Office action within three months is a failure to engage in reasonable efforts to conclude prosecution. A final Office action was mailed on October 23, 2007, and Request for Continued Examination (RCE) was filed on March 21, 2008, which is three months and 58 days after the mailing of the final Office action. As such, Applicants failed to engage in reasonable efforts to conclude prosecution of the application, and this delay totalled 58 days.

However the Office incorrectly used a filing date of March 20, 2008 for the RCE when calculating the period of Applicant delay. As such, the Office incorrectly determined that a period of 57 days of Applicant delay is associated with the submission of the RCE.

The Office thanks Applicants for their good faith and candor in bringing this to the attention of the Office.

---

[2] Petition, page 5.

The Applicant delay of 57 days associated with the submission of the RCE on March 21, 2008 has been removed, and a period of 58 days has been added.

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski (571) 272-3225.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Wednesday

PALM INTRANET

Date: 6/30/2010
Time: 07:38:53

PTA Calculations for Application: 10/763068			
Application Filing Date:	01/22/2004	PTO Delay (PTO):	366
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	489
Post-Issue Petitions:	0	Total PTA.(days):	0
PTO Delay Adjustment:	-1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
101	06/30/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
90	02/16/2010	MAIL NOTICE OF ALLOWANCE			
89	02/05/2010	ISSUE REVISION COMPLETED			
88	02/05/2010	DOCUMENT VERIFICATION			
87	02/05/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
86	02/05/2010	CASE DOCKETED TO EXAMINER IN GAU			
85	02/05/2010	EXAMINER'S AMENDMENT COMMUNICATION			
84	02/05/2010	NOTICE OF ALLOWABILITY			
83	01/14/2010	DATE FORWARDED TO EXAMINER			
82	11/25/2009	RESPONSE AFTER NON-FINAL ACTION		61	78
81	11/25/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
80	07/24/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
79	07/22/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
78	06/25/2009	MAIL NON-FINAL REJECTION			
77	06/23/2009	NON-FINAL REJECTION			
76	06/19/2009	DATE FORWARDED TO EXAMINER			
75	06/18/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
74	06/19/2009	DATE FORWARDED TO EXAMINER			
73	06/18/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)		91	64
72	06/19/2009	DISPOSAL FOR A RCE / CPA / R129			
71	06/18/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			

70	06/18/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
69	05/21/2009	MAIL ADVISORY ACTION (PTOL - 303)			
68	05/21/2009	ADVISORY ACTION (PTOL-303)			
67	05/20/2009	DATE FORWARDED TO EXAMINER			
66	05/19/2009	AMENDMENT AFTER FINAL REJECTION			
65	05/19/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
64	12/19/2008	MAIL FINAL REJECTION (PTOL - 326)			
63	12/18/2008	FINAL REJECTION			
62	11/08/2008	DATE FORWARDED TO EXAMINER			
61	10/21/2008	RESPONSE AFTER NON-FINAL ACTION		91	58
60	10/21/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
58	04/22/2008	MAIL NON-FINAL REJECTION			
57	04/21/2008	NON-FINAL REJECTION			
56	03/25/2008	DATE FORWARDED TO EXAMINER			
55	03/20/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
54	03/25/2008	DATE FORWARDED TO EXAMINER			
53	03/20/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		57	49
52	03/25/2008	DISPOSAL FOR A RCE / CPA / R129			
51	03/20/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
50	03/21/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
49	10/23/2007	MAIL FINAL REJECTION (PTOL - 326)			
48	10/22/2007	FINAL REJECTION			
47	10/17/2007	DATE FORWARDED TO EXAMINER			
46	07/06/2007	RESPONSE AFTER NON-FINAL ACTION		4	42
45	07/06/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	10/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
42	04/02/2007	MAIL NON-FINAL REJECTION			
41	03/29/2007	NON-FINAL REJECTION			
40	03/10/2007	DATE FORWARDED TO EXAMINER			
39	02/26/2007	RESPONSE TO ELECTION / RESTRICTION FILED		62	37
38	02/26/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	09/26/2006	MAIL RESTRICTION REQUIREMENT			

36	09/22/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
35	12/14/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	09/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
33	09/05/2006	TRANSFER INQUIRY TO GAU			
32	08/31/2006	DATE FORWARDED TO EXAMINER			
31	08/23/2006	RESPONSE TO ELECTION / RESTRICTION FILED		61	29
30	08/23/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	03/23/2006	MAIL RESTRICTION REQUIREMENT	366		-1
28	03/20/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
27	03/11/2005	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
26	12/14/2004	REFERENCE CAPTURE ON IDS			
25.7	12/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	12/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	01/06/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	01/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	10/15/2004	APPLICATION RETURN FROM OIPE			
21	10/18/2004	APPLICATION IS NOW COMPLETE			
20	10/15/2004	APPLICATION RETURN TO OIPE			
19	10/15/2004	APPLICATION RETURN FROM OIPE			
18	10/15/2004	APPLICATION RETURN TO OIPE			
17	10/15/2004	APPLICATION RETURN FROM OIPE			
16	10/15/2004	APPLICATION IS NOW COMPLETE			
15	10/15/2004	APPLICATION RETURN TO OIPE			
14	10/15/2004	APPLICATION DISPATCHED FROM OIPE			
13	10/15/2004	APPLICATION IS NOW COMPLETE			
12	09/28/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		62	8
11	09/28/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
10	08/25/2004	RECEIPT OF ACKNOWLEDGMENT LETTER			
9	07/07/2004	RECEIPT OF ACKNOWLEDGMENT LETTER			
8	04/28/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			

7	03/22/2004	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
6	03/22/2004	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
5	03/22/2004	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
4	03/09/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	03/09/2004	CASE CLASSIFIED BY OIPE			
2	02/03/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/22/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

In re Application of	:	
MORAND	:	
Application No. 10/763,070	:	ON PETITION
Filed: January 22, 2004	:	
Attorney Docket No. S1022.81118US00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 29, 2005, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 30, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/477,260.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN, TX 78758

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OFFICE OF PETITIONS

In re Application of :
Van Hoa Lee :
Application No. 10/763,077 : ON PETITION
Filed: January 22, 2004 :
Attorney Docket No. AUS920031061US1

This is a decision on the petition, filed July 10, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 13, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

This matter is being referred to Technology Center AU 2115 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Peter B. Manzo
Yee & Associates, P.C.
P.O. Box 802333
Dallas, TX 75380

---

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

DATE 7/11/07

APPLICATION NUMBER 10/763077

DOC CODE IMIS

DOC DATE

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

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

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Date : July 11, 2007

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/763,077

Applicant(s) : Van Hoa Lee
Application No. : 10/763,077
Filed : January 22, 2004

The above-identified application has been assigned Patent No. 7,246,253 and an issue date of July 17, 2007.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of: July 17, 2007.

> "All reference to Patent No. 7,246,253 to Van Hoa Lee of Texas for METHOD AND APPARATUS TO CHANGE THE OPERATING FREQUENCY OF SYSTEM CORE LOGIC TO MAXIMIZE SYSTEM MEMORY BANDWIDTH appearing in the Official Gazette of July 17, 2007 should be deleted since no patent was granted."

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK, NY 10022

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OFFICE OF PETITIONS

In re Application of	:	
Jannis G. Stavrianopoulos, et. al.	:	
Application No. 10,763,088	:	ON PETITION
Filed: January 22, 2004	:	
Attorney Docket No. ENZ-61(D5)	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to respond to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed August 11, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a sequence listing; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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MARVIN E. JACOBS
KOPPEL & JACOBS
SUITE 215
2151 ALESSANDRO DRIVE
VENTURA CA 93001

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OFFICE OF PETITIONS

In re Application of	:	
Vernard W. Sanders	:	DECISION ON PETITION
Application No. 10/763,091	:	UNDER 37 CFR 1.137(f)
Filed: 21 January, 2004	:	
Atty Docket No. 636-20-016	:	

This is a decision on the petition under 37 CFR 1.137(f),[1] filed on 29 November, 2004, to revive the above-identified application.

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

The record discloses that, on 21 January, 2004, the date of filing of the instant application, a Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was filed certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing."

On 29 November, 2004, petitioners filed a request under 35 U.S.C. § 122(b)(2)(B)(ii) that the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) be rescinded and the application revived because this application became abandoned for failure to notify the Office of the filing of a corresponding international or

[1] 37 CFR 1.137(f) provides for revival of a nonprovisional application which became abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing.

foreign application. The present petition was also filed on 29 November, 2004. In this regard, petitioner states that an international or foreign application corresponding to the instant application was filed on 29 November, 2004, the same date that the instant application was filed.

The instant nonprovisional application did not become abandoned as a result of the filing of a corresponding application filed in another country, or under a multilateral international agreement, **subsequent** to the filing of the present application. In this regard, 35 U.S.C. § 122(b)(2)(B)(iii) states:

> An applicant who has made a request under clause (i) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days **after the date of the filing of such foreign or international application**. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional [emphasis supplied].

The facts of this case are that the subject application was filed on 21 January, 2004, and the corresponding foreign application was also filed on 21 January, 2004. The statute does not provide for the situation where a certification under 35 U.S.C. § 122(b)(2)(B)(i) was made, despite the fact that an application was filed on the same day in another country or under the multilateral international agreement. In view of petitioner's statement that the corresponding foreign application was filed on 21 January, 2004, the same date as the date of filing of the subject application, the filing of the corresponding foreign application cannot be considered to have been filed **subsequent** to the filing of the subject application in the United States. The statute at 35 U.S.C. § 122(b)(2)(B)(iii) only provides for revival in the situation where a certification was made under 35 U.S.C. § 122(b)(2)(B)(i) at the time of filing the application and an application was **subsequently** filed in a foreign country without notifying the Office within 45 days of the filing thereof.

Since the corresponding foreign or international application was either filed on the same date or filed prior to the filing date (this would be true if the corresponding foreign or international application has a filing date of 21 January, 2004) as the subject application, this application did not become abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii). Therefore, a petition to revive pursuant to the provisions of 37 CFR 1.137(f) is inappropriate and, consequently, must be dismissed.

As requested, the 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, stating the projected publication date of 2 June, 2005, is enclosed herewith.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition.[2] Accordingly, the required $685.00 petition fee has been received.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

[2] *See* 35 U.S.C. § 41(c)(7).

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SoCal IP Law Group LLP
310 Westlake Blvd., Suite 120
Westlake Village, CA 91362

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OFFICE OF PETITIONS

In re Application of :
Vernard Sanders :
Application No. 10/763,091 : DECISION ON PETITIONS
Filed: January 21, 2004 :
Attorney Docket No. 636-20-016 :

This is a decision on the following petitions: (1) petition, filed June 16, 2006, under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application; (2) petition, filed July 21, 2006, under 37 CFR 1.313(c)(3) to withdraw this application from issue for express abandonment; and (3) petition, filed August 1, 2006, under 37 CFR 1.182, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the above petitions.

The petition under 37 CFR 1.137(b) is **DISMISSED** as moot in view of the request under 37 CFR 1.181 withdrawing the petition to revive.

The petition under 37 CFR 1.313(c)(3) is **DISMISSED** as moot since the application is abandoned.

The petition under 37 CFR 1.181 requesting withdrawal of the petition to revive is **GRANTED**.

Petitioner has submitted, by credit card, a $700 issue fee, a $750 petition to revive fee, and a $130 fee for the petition to withdraw from issue. In view of the request withdrawing the petition to revive, these fees are unnecessary. Accordingly, the above fees will be refunded to petitioner's credit card in due course. No fee has been assessed to the petition under 37 CFR 1.181.

As this application will retain its abandoned status, no further action herein is necessary.

Inquiries concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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Ronald C. Fedus, Esq.
Enzo Life Sciences, Inc.
c/o Enzo Biochem, Inc.
527 Madison Avenue (9th Floor)
New York NY 10022-4304

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OFFICE OF PETITIONS

In re Application of	:	
Stavrianopoulos, et al.	:	DECISION
Application No. 10/763,102	:	ON PETITION
Filed: January 22, 2004	:	
Attorney Docket No. Enz-61(D3)	:	

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

This application became abandoned for failure to timely reply to Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice), mailed August 11, 2004, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received, this application became abandoned on October 12, 2004. A Notice of Abandonment was mailed on May 12, 2005.

Petitioner has submitted a reply to the August 11, 2004 Notice, the instant petition under 37 CFR 1.137(b) and required petition fee, and an acceptable statement regarding the unintentional nature of the delay in responding to the August 11, 2004 Notice.

The statement of unintentional delay presented in the petition does not comply with the current rule. Effective December 1, 1997, 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" be submitted. However, the statement presented will be accepted and construed as meaning 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 this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

The petition is **granted**.

After the mailing of this decision, the file will be forwarded to the Office of Initial Patent Examination for further processing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of	:	
Hutchens et al.	:	
Application No. 10/763,133	:	ON PETITION
Filed: January 22, 2004	:	
Attorney Docket No. 84715	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 4, 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 28, 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 29, 2004. A Notice of Abandonment was mailed on January 14, 2005.

Petitioner's deposit account will also be charged the $130.00 late oath or declaration surcharge required by the Notice as authorized.

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

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

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

Liana Chase

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

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Paper No. 090204

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

SEP - 8 2004

In re Application of:	:	
ROBERT VINCENT	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/763,138	:	
Filed: January 22, 2004	:	
Attorney Docket No.: **BOW-1335-048**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed July 19, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Schottenstein Zoe & Dunn was filed on August 09, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: ROGER A. GILCREST
SCHOTTENSTEIN ZOE & DUNN
250 EAST BROAD STREET
P.O. BOX 165020
COLUMBUS, OH 43216-5020

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Masayasu Mori
Oblon, Spivack, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

Inventor: Takashi Ishizaki et al.	:	PETITION TO HAVE FOREIGN
Application No. 10/763,177	:	PRIORITY ACKNOWLEDGED
Filed: January 26,2004	:	UNDER
Attorney Docket No.: 248081US90X	:	37 C.F.R. 1.181
For: DISPLAY ORIENTATION	:	
ADJUSTMENT APPARATUS	:	

This is in response to applicant's petition filed on July 14, 2005 to have the examiner acknowledge the claim for Foreign Priority.

The petition is **GRANTED.**

The petitioner sets forth that a request for Foreign Priority and a copy of the priority document, Japanese Application Serial No. 2003-026228 were filed on January 26, 2004 and that the application data sheet filed January 26, 2004 also lists the Foreign Priority information.

A review of the file record indicates that the request for Foreign Priority and the supporting certified copy of the priority document were timely received by the Office on January 26, 2004.

Accordingly, the application will be forwarded to the examiner for the preparation of a Supplemental Notice of Allowability indicating the status of the Foreign Priority claim.

Any questions dealing with this decision should be directed to Robert Olszewski at (571) 272-6788.

Summary: ***Petition Granted***

John J. Love

John J. Love, Director
Patent Technology Center 3600
(571)-272-5250

RPO/SNM:8/03/05

SM

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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043

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In re Application of	:	
Alex Shakhov, et. al.	:	
Application No. 10/763,197	:	DECISION ON PETITION
Filed: January 26, 2004	:	
Attorney Docket No. MR2767-3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 5, 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, March 21, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on June 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 After Non-Final Rejection, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified patent. However, in accordance with 37CFR 1.34(a), the signature of Morton J. Rosenberg appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

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

This application is being referred to Technology Center AU 1644 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

SPE D. Dunn

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/763,201

Paper No.: _____

DATE : 6/21/05

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 6842280

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 M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

_____

_____

_____

_____

_____

_____ _____
SPE **Art Unit**

SPE D. Dunn

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/763,201

Paper No.: _____

DATE : 6/21/05

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 6842280

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 M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:
Please correct the Patents with the changes listed in the Certificate of Correction.

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE — **Art Unit** 2872

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PATTON BOGGS LLP
8484 WESTPARK DRIVE, SUITE 900
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
JESMONTH, Richard E.	:	
Application No. 10/763,263	:	DECISION GRANTING PETITION
Filed: January 26, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **021384.0101PTUS**	:	

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 11, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2856 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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Alexandria, VA 22313-1450
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

JUL 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Kousetsu Sai	:	
Application No. 10/763,275	:	DECISION ON PETITION
Filed: January 26, 2004	:	
Attorney Docket No. 1466.1084	:	

This is a decision on the petition, filed April 19, 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**.

This application was held abandoned for failure to reply to the nonfinal Office action mailed September 11, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on March 19, 2010.

Petitioner asserts that the Office action dated September 11, 2009 was not received.

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

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

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

3. 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, and

4. 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.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2434 for re-mailing the Office action of September 11, 2009. The period for reply will run from the mailing date of the Office action.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions
571-272-3208

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SEP 16 2009

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Application	:
Rade Petrovic	:
Application No. 10/763,288	: DECISION ON APPLICATION
Filed: January 26, 2004	: FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **50190-US-NP**	:

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed April 6, 2009. Applicant requests that the determination of patent term adjustment be corrected from 73 days to 950 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008). In addition, applicant asserts entitlement to an additional period of adjustment of 272 days pursuant to 37 CFR 1.702(a)(2).

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, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for

continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

With respect to the over 3 year calculation, rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is DISMISSED.

On January 9, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 73 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

Applicants argue that an amendment was filed August 15, 2005 in response to a non-Final Office Action mailed July 5, 2005. A Final office action was then mailed November 3, 2005. However, in an Interview on December 20, 2005, the Examiner of record agreed to lift the finality of the November 3, 2005 Office Action and issue a new Action applying new art confirmed by an Interview Summary dated March 3, 2006. On September 13, 2006 a non-Final Office Action was mailed. Applicants argue further an entitlement to an additional 272 days of PTA pursuant to 37 CFR 1.702(a)(2) due to inaction by the PTO from December 15, 2005 (4 months after the August 15, 2005 response to office action filed by Applicant) until the mailing of the second non-Final office action on September 13, 2006.

Applicant's argument is not persuasive. 37 CFR 1.702(a)(2) provides that: Failure to take certain actions within specified time frames . Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

[1] PALM records indicate that the issue fee was paid on April 6, 2009.

> Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken.

In this instance, the Office action mailed November 3, 2005 was mailed in response to and within four months of receipt of applicant's response filed August 15, 2005. The Office did not fail to take action in response to applicant's response within the time provided for in 37 CFR 1.702(a)(2). The fact that the Office subsequently mailed a further Office action withdrawing the finality of the November 3, 2005 Office action does not negate the fact that the Office took action within the meaning of 37 CFR 1.702(a)(2) on November 3, 2005. Accordingly, entry of an additional period of adjustment of 272 days for examination delay pursuant to 37 CFR 1.702(a)(2) is not warranted.

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

In view thereof, the patent term adjustment at the time of mailing of the notice of allowance remains 73 days.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-16-06

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 7,023,615 (10/763,297)

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.

Eva James

Drawings

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703- 308-9390 Ext. 124

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 drawings provided by the applicant do not change the scope of the patented subject matter.

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE

2872
Art Unit

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Paper No. 021005

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

MAR 17 2005

In re Application of	:	
FUKUDA et al.	:	DECISION ON PETITION
Application No. 10/763,302	:	
Filed: January 26, 2004	:	
Attorney Docket No. HITA.0504	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed December 08, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a check covering the required petition fee of $130.00, (b) a statement that all claims are directed to a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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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 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Miner, et al. :
Application No. 10/763,303 : NOTICE
Filed: January 23, 2004 :
Attorney Docket No. NNC-008 :

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

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MAR 25 2005

PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

In re Application of	:
Hagen et al.	:
Serial No.: 10/763,340	: PETITION TO MAKE SPECIAL
Filed: January 23, 2004	:
Attorney Docket No.: PC25240A	:

This is in response to applicants' petition filed March 14, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) will be charged to applicants' Deposit Account No. 16-1445, as directed. Therefore, the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/763,364	01/23/2004	2153	1058	13768.470	4	36	3

CONFIRMATION NO. 7586

CORRECTED FILING RECEIPT

OC000000015622576

47973
WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

Date Mailed: 03/31/2005

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)

Luis Felipe Cabrera, Bellevue, WA;
George P. Copeland, Redmond, WA;
Steven E. Lucco, Bellevue, WA;
Bradford Lovering, Seattle, WA;

Power of Attorney: The patent practitioners associated with Customer Number **022913**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/27/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/763,364

Projected Publication Date: 07/28/2005

Non-Publication Request: No

Early Publication Request: No

BEST AVAILABLE COPY

Title

Message exchange pattern tracking to avoid invalid message exchange

Preliminary Class

709

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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ISIS PHARMACEUTICALS, INC
1896 RUTHERFORD ROAD
CARLBAD, CA 92008

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DEC 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
BENNETT, et al.	:	
Application No. 10/763,367	:	DECISION ON PETITION
Filed: January 23, 2004	:	TO WITHDRAW
Attorney Docket No. CORE0028US	:	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 12, 2006.

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

A review of the file record indicates that the power of attorney to ISIS PHARMACEUTICALS, INC has been revoked by the assignee of the patent application on September 14, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Patricia Volpe
Petitions Examiner
Office of Petitions

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

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/763,367	01/23/2004	C. Frank Bennett	ISIS0107-100/CORE0028US

CONFIRMATION NO. 8498

OC000000021490034

34138
ISIS PHARMACEUTICALS, INC
1896 RUTHERFORD ROAD
CARLBAD, CA 92008

Date Mailed: 12/06/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/14/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

PVolpe

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Andrew Halliday	: DECISION ON REQUEST FOR
Patent Number	: 7592027	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/763,376	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1190** 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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DIW Jan-08

ELMORE PATENT LAW GROUP, PC
209 MAIN STREET
N. CHELMSFORD MA 01863

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Yat Sun Or	:	
Application Number: 10/763377	:	ON PETITION
Filing Date: 01/23/2004	:	
Attorney Docket Number: ENP-074	:	
(4014.1074 US)	:	

This is a decision in reference to the paper filed on December 5, 2007, styled as a petition under 37 CFR 1.183, requesting that the Office accept petitioner's reply brief filed on December 5, 2007, as timely filed.

The petition is **DISMISSED AS MOOT**.

Petitioner states that the reply brief was due on December 4, 2007, in response to the Examiner's Answer to the corrected appeal brief filed on July 26, 2007. A review of the record reveals that the Reply Brief was filed on December 5, 2007.

A review of the official file reveals that the Examiner's Answer was mailed on October 9, 2007. This is mailing date of the Examiner's Answer, despite the stamp on the second page of the Answer which shows a different date. As such, the Reply Brief filed on December 5, 2007, was not untimely.

Accordingly, the petition is dismissed as moot.

No petition fee is due. The petition fee will be credited to counsel's deposit account as authorized in the petition.

The application is being referred to Technology Center Art Unit 1623 for further processing.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR 28 2005

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:
Abram et al.	:
Serial No.: 10/763,379	: PETITION TO MAKE SPECIAL
Filed: January 23, 2004	:
Attorney Docket No.: 021706-000420US	:

This is in response to applicants' petition filed March 18, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) will be charged to applicants' Deposit Account No. 20-1430, as directed. Therefore, the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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OCT 30 2008

OFFICE OF PETITIONS

In re Application of	: DECISION DISMISSING PETITION
VEECH, RICHARD L.	: UNDER 37 CFR 1.78(a)(3)
Application No. 10/763,393	:
Filed: 01/26/2004	:
Attorney Docket No. 604-707	:

This is a decision on the petition under 37 C.F.R. 1.78(a)(3), filed June 17, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP 201.06(d). Applicant should review the claims submitted to ensure that a reference is made to the first application and to every intermediate application.

Specifically, the Office notes that Application Nos. 10/153,873, 09/843,694, and 09/397,100 claim the benefit of prior-filed provisional application No. 60/040,858 under 35 U.S.C. 119(e). However, Application Nos. 10/153,873, 09/843,694, and 09/397,100 were not filed within 12 months of the filing date of prior-filed provisional application 60/040,858 filed March 17, 1997. Thus, Application Nos. 10/153,873, 09/843,694, and 09/397,100 improperly claim the benefit of prior-filed provisional application 60/040,858.

The Office reminds applicant that when a later-filed application is claiming the benefit of a prior-filed provisional application under 35 U.S.C. 119(e), the nonprovisional application must be filed not later than 12 months after the date on which the provisional application was filed. MPEP 201.11(II)(A). If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the nonprovisional application may be filed on the next succeeding business day. See 35 U.S.C. 21(b), 37 CFR 1.7(b), and MPEP 201.04(b) and 505. An applicant may claim the benefit of a provisional application by claiming the benefit of an intermediate copending nonprovisional application. The later-filed application must claim the benefit of the intermediate nonprovisional application under 35 U.S.C. 120, 121, or 365(c); the intermediate application must be filed not later than 12 months after the filing date of the provisional application; and both the later-filed application and the intermediate application must claim the benefit of the provisional application under 35 U.S.C. 119(e). MPEP 201.11(II)(A).

Before a petition under 37 CFR 1.78(a)(3) can be granted in this application, petitioners must correct the error in Application Nos. 10/153,873, 09/843,694, and 09/397,100. Therefore, applicant must: (1) file a petition under 37 CFR 1.78(a)(6) and a petition to revive under 37 CFR 1.137(b) in Application No. 10/153,873; (2) file a petition under 37 CFR 1.78(a)(6) and a petition to revive under 37 CFR 1.137(b) in Application No. 09/843,694; (3) file a completed Certificate of Correction (and certificate of correction fee)[1] in Application No. 09/397,100 (now Patent No. 6,323,237) correcting the claim for benefit of prior-filed provisional application 60/040,858; and (4) file a renewed petition under 37 CFR 1.78(a)(3) in the present application (No. 10/763,393) accompanied by a copy of the completed Certificate of Correction in Application No. 09/397,100 to demonstrate that applicant perfected the priority claim in that application. No additional fee is required for filing a renewed petition under 37 CFR 1.78(a)(3)

[1] See MPEP 1481.03(II).

in this application. The Office notes that decisions granting the petitions under 37 CFR 1.78(a)(6) and 1.137(b) in Application Nos. 10/153,873 and 09/843,694, as well as a Certificate of Correction in Application No. 09/397,100 are pre-requisites for a decision on any renewed petition in this application (No. 10/763,393).

The petition fee of $1,410.00 will be charged to the Deposit Account as authorized.

Upon filing the above-mentioned petitions, applicant should include a cover letter clearly directing them to the Attention of Senior Petitions Attorney Christina Tartera Donnell.

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Conferees: Joni Chang and Eugenia Jones, Senior Legal Advisors, Office of Patent Legal Administration

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JUN 17 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

VEECH, Richard L. Atty. Ref.: 604-707; Confirmation No. 4584

Appl. No. 10/763,393 TC/A.U. 1609

Filed: January 26, 2004 Examiner: Thomas, Timothy P.

For: THERAPEUTIC COMPOSITIONS

* * * * * * * * * * *

June 17, 2008

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

Sir:

PETITION UNDER 37 C.F.R. §1.78(A)(3)

In response to the Official Action of March 17,2008, Applicant hereby petitions under 37 C.F.R. §1.78(a)(3) for acceptance of an unintentionally delayed benefit claim under 35 U.S.C. §119(e), 120, 121 and 365(c). The present petition is accompanied by an Amendment and Response which presents the requested cross-reference to the prior applications.

The entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional.

The requisite fee and/or surcharge for this petition are to be charged to our deposit account number **14-1140**.

10/30/2008 GARIAS 00000011 141140 10763393
01 FC:1454 1410.00 DA

VEECH, Richard L.
Appl. No. 10/763,393
June 17, 2008

Favorable action on the present petition is respectfully requested.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____
Leonard C. Mitchard
Reg. No. 29,009

LCM:lff
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

PAGE 3/3 * RCVD AT 6/17/2008 4:15:11 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/20 * DNIS:2738300 * CSID:703 816 4100 * DURATION (mm-ss):00-44

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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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JAN 05 2009
OFFICE OF PETITIONS

In re Application of	: DECISION GRANTING PETITION
VEECH, RICHARD L.	: UNDER 37 CFR 1.78(a)(3)
Application No. 10/763,393	:
Filed: 01/26/2004	:
Attorney Docket No. 604-707	:

This is a decision on the renewed petition under 37 C.F.R. 1.78(a)(3), filed November 26, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the Supplemental Application Data Sheet (ADS) filed December 15, 2008.

The petition is **GRANTED**.

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

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

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

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

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

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

This application is being forwarded to Technology Center Art Unit 1614 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/763,393	01/26/2004	1614	1786	604-707	31	11

CONFIRMATION NO. 4584

CORRECTED FILING RECEIPT

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

OC000000033907579

Date Mailed: 01/05/2009

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

Applicant(s)

Richard L. Veech, Rockville, MD;

Assignment For Published Patent Application

BTG International Limited, London, UNITED KINGDOM

Power of Attorney:
Leonard Mitchard--29009

Domestic Priority data as claimed by applicant

This application is a CON of 10/408,667 04/08/2003 ABN
which is a CON of 10/153,873 05/24/2002
which is a CON of 09/843,694 04/30/2001
which is a CON of 09/397,100 09/16/1999 PAT 6,323,237
which is a CIP of PCT/US98/05072 03/17/1998
which claims benefit of 60/040,858 03/17/1997

Foreign Applications

If Required, Foreign Filing License Granted: 04/27/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/763,393**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Therapeutic compositions

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH Street
Washington, DC 20005

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APR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Thomas J. Mathai, et al.	:	
Application No. 10/763,415	:	DECISION ON PETITION
Filed: January 26, 2004	:	TO WITHDRAW
Attorney Docket No. 58724.00003.UTL1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 16, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Martin R. Bader on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed November 25, 2008 that requires a reply from the applicant.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Thomas J. Mathai**
701 Level 7-Uptown 2, No. 2 Jalan § 21/37
Damanara Utama 47800 Petaling Jaya
Selangor, Malaysia

cc: **Thomas Mathai**
Trevor Coddington, Esq.
3510 Calle Hidalgo
Carlsbad, CA 92009

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/763,415	01/26/2004	Thomas J. Mathai	58724.00003.UTL1

CONFIRMATION NO. 4541

POWER OF ATTORNEY NOTICE

36183
PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington, DC 20005

OC000000035457424

Date Mailed: 04/13/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/16/2009.

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

/tswilliams/

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

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POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

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FEB 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Stephen J. Karlik, et al.	:	
Application No. 10/763,424	:	DECISION ON PETITION
Filed: January 26, 2004	:	
Attorney Docket No. 1034008-000061	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 21, 2006. A Notice of Abandonment was mailed on August 10, 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).

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 appeal fee; (2) the petition fee of 1,500; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1644 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 may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

FILE COPY

14637

OIPE JC113
NOV 0 8 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	
OSTERLOH 1754	
SERIAL NO.: 10/763,434	
FILED: January 21, 2004	
FOR: **APPARATUS FOR REMOVING TOXIC MATERIAL FROM TOXIC WEAPON PROJECTILES**	Filed: November 4, 2004

PETITION TO MAKE SPECIAL BECAUSE OF ENVIRONMENTAL QUALITY (37 C.F.R. 1.102(c) and M.P.E.P. § 708.02(v)

Special Program Law Office
Office of Petitions
Commissioner of Patents & Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby petition to make this application special because it is for an invention that materially enhances the environment of mankind, by contributing to the restoration or maintenance of the basic life-sustaining material elements (air, water and/or soil).

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

FEB 28 2005

OIPE JC113
NOV 0 8 2004
PATENT & TRADEMARK OFFICE

14637

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	)	
OSTERLOH	)	
SERIAL NO.: 10/763,434	)	
FILED: January 21, 2004	)	
FOR: **APPARATUS FOR REMOVING TOXIC MATERIAL FROM TOXIC WEAPON PROJECTILES**	)	Filed: November 4, 2004

PETITION TO MAKE SPECIAL BECAUSE OF ENVIRONMENTAL QUALITY (37 C.F.R. 1.102(c) and M.P.E.P. § 708.02(v)

Special Program Law Office
Office of Petitions
Commissioner of Patents & Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby petition to make this application special because it is for an invention that materially enhances the environment of mankind, by contributing to the restoration or maintenance of the basic life-sustaining material elements (air, water and/or soil).

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700
FEB 2 8 2005

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JAN 25 2006

OFFICE OF PETITIONS

SHELDON & MAK
225 SOUTH LAKE AVENUE, 9TH FLOOR
PASADENA CA 91101

In re Application of	:	
James Osterloh	:	
Application No. 10/763,434	:	ON PETITION
Filed: January 21, 2004	:	
Attorney Docket No. 14637	:	

This is a decision on the petition, filed January 17, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application filed January 11, 2006.

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

This matter is being referred to Files Repository.

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

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United States Patent and Trademark Office
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Andrew Halliday	: DECISION ON REQUEST FOR
Patent Number	: 7607385	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/763,444	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **641** 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

JOHN F. LETCHFORD
ARCHER & GREINER, P.C.
ONE CENENNIAL SQUARE
HADDONFIELD, NJ 08033

In re Application of	:	
Bruce A. Rogers et al	:	
Application No. 10/763,447	:	DECISION GRANTING PETITION
Filed: January 23, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 08859-0009C	:	

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

The petition is **GRANTED**.

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

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly since the $510 extension of time submitted with the petition on November 1, 2006, was subsequent to the maximum period obtainalbe for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 3732.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

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JUL 24 2008

In re Application of	:	
Antonio Criminisi et al	:	
Application No. 10/763,453	:	ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. 304561.02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 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 August 28, 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 November 29, 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 2624 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: MacLane C. Key
1800 Diagonal Road
Alexandria, VA 22314

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

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OFFICE OF PETITIONS

In re Application of	:	
Alan M. Nelson, et al.	:	
Application No. 10/763,466	:	DECISION ON PETITION
Filed: January 22, 2004	:	TO WITHDRAW
Attorney Docket No. 273102008401	:	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 15, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because practitioners have not made all the necessary certification required to grant the withdrawal. Further the request can not be granted because the petitioner the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

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

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

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

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

cc: JUDY MOHR, PH.D., J.D.
KING & SPALDING, LLP
1000 BRIDGE PARKWAY
SUITE 100
REDWOOD SHORES, CA 94065

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Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Valery M. Dubin	: DECISION ON REQUEST FOR
Patent Number	: 7597763	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/763,470	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1627** 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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ORUM & ROTH
53 W. JACKSON BLVD
CHICAGO IL 60604

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of :
Tore Haraldsson :
Application No. 10/763,490 :
Filed: January 23, 2004 :
Attorney Docket No. 13760 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Glemrich: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Catherine L. Glemrich has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record.

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

There is an outstanding Office action mailed August 10, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF THE DIRECTOR
TC 3600

ALFRED D. LOBO & CO., L.P.A.
933 THE LEADER BUIILDING
526 SUPERIOR AVENUE
CLEVELAND, OH 44114

In re application of
Robert Lee Bullock
Application No. 10/763,496
Filed: January 23, 2004
For: RAILROAD FREIGHT CAR TRUCK SUSPENSION YAW STABILIZER

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on April 30, 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. Bullock indicating that he is at least 65 years of age.

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

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

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

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

SNM/slb: 6/29/04

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

Applicant	: Deborah K. Avis	: DECISION ON REQUEST FOR
Patent Number	: 7573212	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/763,504	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **906** 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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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 05/18/2010

Applicant : Deborah K. Avis
Patent Number : 7573212
Issue Date : 08/11/2009
Application No : 10/763,504
Filed : 01/22/2004

: 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 **908** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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Paper No. 081104

RALPH KALIBJIAN
1051 BATAVIA AVE.
LIVERMORE, CA 94550

AUG 24 2004

In re Application of:	:	
RALPH KALIBJIAN	:	DECISION ON PETITION
Serial No.: 10/763,529	:	TO MAKE SPECIAL
Filed: January 23, 2004	:	
Attorney Docket No.:	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed January 23, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from the inventor, Ralph Kalibjian, stating that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Stephen J. Karlik	: DECISION ON REQUEST FOR
Patent Number	: 7576101	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/763,539	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1177** 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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 05/17/2010

Applicant : Stephen J. Karlik
Patent Number : 7576101
Issue Date : 08/18/2009
Application No : 10/763,539
Filed : 01/26/2004

: 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 **1231** 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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JOHN P. WHITE
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:	
William C. Olson et al	:	
Application No. 10/763,545	:	ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. 2048/57906-E/JPW/MAF	:	

This is a decision on the petition, filed May 17, 2007, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in view of the filing of a continuing application.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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BRIAN R. WOODWORTH
275 N. FIELD DRIVE
DEPT. NLEG BLDG H-1
LAKE FOREST, IL 60045-2579

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OFFICE OF PETITIONS

In re Application of :
Steven T. Cho et al :
Application No. 10/763,549 : ON PETITION
Filed: January 23, 2004 :
Attorney Docket No. 6882USD1 :

This is a decision on the petition filed October 16, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed April 28, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 29, 2006.

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

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,555	01/23/2004	Charles A. Howland	W0490/7020US	7558

24222 7590 10/23/2006

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P O BOX 3445
NASHUA, NH 03061-3445

EXAMINER
KOCH, GEORGE R

ART UNIT	PAPER NUMBER
1734	

DATE MAILED: 10/23/2006

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

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed:

In re application of HOWLAND	:	
U.S. Patent Application No. 10/763,555	:	**DECISION ON**
Application Number: 10/763,555	:	**PETITION**
Filed: January 23, 2004	:	
For: METHOD FOR MAKING ADHESIVE FABRIC JOINTS WITH HEAT AND PRESSURE BY COMPARING ACTUAL JOINT PARAMETERS TO PRE-CALCULATED OPTIMAL JOINT PARAMETERS	:	

This is a decision on the petition filed on January 23, 2004 to accept a color photograph under 37 C.F.R. 1.814(b)(2).

Decision

Applicants are deemed to have fulfilled the requirements under 37 C.F.R. 1.814(b)(2) in that the petition is accompanied by: (1) a fee; (2) three sets of color drawings; and (3) an amendment to the specification to include the following language as the first paragraph of the brief description of the drawings section of the specification:

> The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

The petition is **GRANTED**.

Christopher A. Fiorilla
SPE AU 1734
Technology Center 1700
Chemical and Materials Engineering

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

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

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OFFICE OF PETITIONS

In re Application of :
You-Yuh Shyr et al :
Application No. 10/763,557 :
Filed: January 23, 2004 :
Attorney Docket No. :
O2Micro 99.05CON2

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 29, 2007, as required by the Notice of Allowance and Fee(s) Due mailed July 27, 2007. Accordingly, the date of abandonment of this application is October 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440 and the publication fee of $300, (2) the petition fee of $1,540, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

This application is being referred to Office of Data Management for appropriate processing in accordance with this decision on petition.

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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Paper No.

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Pamela M. Drake et al.	:	
Application No. 10/763,570	:	DECISION ON PETITION
Filed: January 23, 2004	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.181(A)
340082.401	:	
Title: COMPOSITIONS AND METHODS	:	
FOR RESTORING BACTERIAL FLORA	:	

This is a decision on the petition filed March 13, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **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 June 16, 2008, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on September 17, 2008. A notice of abandonment was mailed on January 13, 2009.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney

docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With this petition, Petitioner has stated that the Office communication of June 16, 2008 was not received at the correspondence address of record.[1]

Petitioner has further indicated that a "search of the docketing records has been performed,"[2] that Office correspondence is delivered to the docketing department,[3] where due dates are

1 Petition, page 1.
2 Petition, page 2.
3 Petition, page 2, paragraph a.

calculated[4] and the "base date" is entered into a "CPI (Computer Packages Inc.) database,[5]" and the docketing personnel forwards a copy of the "print screen" to the legal assistant for the responsible attorney,[6] who "enters the due date on a separate paper calendar."[7]

Moreover, Petitioner has indicated that a review of both the "file" and the "Image File Wrapper" indicates that the Office action was not received.[8]

Finally, Petitioner has included a copy of the master docket and a calendar.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the final Office action mailed June 16, 2008 was not received.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

CONCLUSION

The Technology Center will be notified of this decision, and jurisdiction over the application is transferred to the Technology Center, so that the application may receive further processing. **The Technology Center's support staff will re-mail the final Office action mailed June 16, 2008, and will set a new period for response.**

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[9] All other inquiries

4 Petition, page 2, paragraph b.
5 Petition, page 2, paragraph c.
6 Petition, page 2, paragraph e.
7 Petition, page 2, paragraph f.
8 Petition, page 3.

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
Chung Yi-Chen	:	
Application No. 10/763,572	:	DECISION ON PETITION
Filed: January 23, 2004	:	TO WITHDRAW
Attorney Docket No. 9182.0005-00	:	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 22, 2005.

The request is **NOT APPROVED**.

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

The request cannot be approved because The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, Application be transferred to new counsel at the request of Sigma Tel, Inc, do not meet any the conditions set forth in 37 CFR 10.40 as the assignee has not intervened in accordance with 37 CFR. 3.71.

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 Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: Jeff Toler
IP Legal Services
5000 Plaza on the Lake, Suite 265
Austin, Texas 78746

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. None

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of Chung Yi-Chen Application No. 10/763,572 Filed: January 23, 2004 Attorney Docket No.: 9182.0005-00 Title: INTERPOLATIVE INTERLEAVING OF VIDEO IMAGES	:	DECISION ON PETITION UNDER 37 C.F.R. §1.181

This is a decision on the petition filed on March 8, 2007, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed September 21, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1]. Accordingly, the above-identified application became abandoned on December 22, 2006. A Notice of Abandonment was mailed on January 22, 2007.

1 See MPEP §710.02(e).

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. §1.4(c) sets forth, *in toto*:

> Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

MPEP 402.06 states, *in pertinent part*:

> In the event that a notice of withdrawal is filed by the attorney or agent of record, the file will be forwarded to the appropriate official for decision on the request. The **withdrawal is effective when approved** (emphasis included) rather than when received.

MPEP 711.03(c) states, *in pertinent part*:

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. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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).

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that he failed to receive the Notice of Allowance and Issue Fee Due.

The timeline of relevant events is as follows:

- November 22, 2005: a request for withdrawal of power of attorney was filed by the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner LLP (Finnegan). The request further set forth that all future correspondence should be sent to "Jeff Toler, IP Legal Services, 5000 Plaza on the Lake, Suite 265, Austin, Texas, 78746" (IP Legal Services).
- September 8, 2006: a decision was mailed on this request, indicating that the request was not approved. The decision was mailed to the address of record (Finnegan), and a copy was mailed to IP Legal Services.
- September 21, 2006: a Notice of Allowance and Issue Fee Due was mailed to Finnegan.
- January 22, 2007: a Notice of Abandonment was mailed to Finnegan.

With this petition, Petitioner has asserted that the application "is not in fact abandoned" because the Notice of Allowance and Issue Fee Due was not timely received by Petitioner (Jeffrey G. Toler, formerly of IP Legal Services). It is noted in passing that it does not appear that Mr. Toler has updated his address with the Office.

It is further noted in passing that although Finnegan attempted to change the correspondence address to IP Legal Services with the submission of November 22, 2005, this request was improper. Finnegan attempted to file both the request for withdrawal of power of attorney and the change of correspondence address as a single submission. This was improper, pursuant to 37 C.F.R. §1.4(c).

Petitioner has further set forth that he became aware of both the Notice of Allowance and Issue Fee Due and the notice of

abandonment upon receiving a letter from Finnegan on February 7, 2007, which included a copy of the Notice of Abandonment. Consequently, he was not aware of the Notice of Allowance and Issue Fee Due until after the expiration of the period for response.

As such, Petitioner has indicated that the Office communication in question was not received by the practitioner. Petitioner has further included a declaration of facts which includes a statement which implies that a search of the file jacket and docket records indicates that the Office communication was not received (from Finnegan). Finally, Petitioner has included a copy of the docket record where the nonreceived Office communication would have been entered had it been received (from Finnegan) and docketed.

Clearly, Petitioner is attempting to meet the requirements of Delgar v. Schulyer, as delineated in MPEP §711.03(c)(I)(A), reproduced above. However, the Delgar requirements are not relevant to the pertinent case, in that the Office did not mail the relevant communication to Petitioner. In Delgar, the Office mailed a notice of allowance to the applicant, and the Delgar showing provides a mechanism by which applicants can establish that a mailing was not received from the Office. Petitioner is attempting to establish that a mailing was not received from another law firm, a situation which is outside of the scope of Delgar.

CONCLUSION

Pursuant to the above discussion, the petition must be **DISMISSED.**

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C 704. The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

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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, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§ 1.137(a) and/or (b). No assurance can be made that any remedy will be forthcoming.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate that a change of correspondence address has been properly filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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

cc: Jeffrey G. Toler
Toler Schaffer, L.L.P.
8500 Bluffstone Cove, Suite A201
Austin, Texas 78759

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

TOLER SCHAFFER, LLP
8500 BLUFFSTONE COVE
SUITE A201
AUSTIN TX 78759

In re Application of Chung Yi-Chen Application No. 10/763,572 Filed: January 23, 2004 Attorney Docket No.: 9182.0005-00 Title: INTERPOLATIVE INTERLEAVING OF VIDEO IMAGES	DECISION ON RENEWED PETITION UNDER 37 C.F.R. § 1.181 AND PETITIONS UNDER 37 C.F.R. §§ 1.137(A) AND (B)

This is a decision on the renewed petition filed on August 1, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn, as well as the concurrently filed petitions pursuant to 37 C.F.R. §§ 1.137(a)[1] and (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 required reply (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;

(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

Each of the three petitions will be separately addressed.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due (notice), mailed September 21, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[3]. Accordingly, the above-identified application became abandoned on December 22, 2006. A Notice of Abandonment was mailed on January 22, 2007.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on March 8, 2007, and was dismissed via the mailing of a decision on June 7, 2007.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.4(c) sets forth, *in toto*:

> Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order **must** (emphasis added) be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

37 C.F.R. § 1.36(b) sets forth, *in pertinent part*:

> (b) A registered patent attorney or patent agent who has been given a power of attorney pursuant to § 1.32(b) may withdraw as attorney or agent of record upon application to and approval by the Director.

---

paragraph was unavoidable, and;
(4) a terminal disclaimer (and fee as set forth in §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);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

3 See MPEP §710.02(e).

MPEP § 402.06 states, *in pertinent part*:

> In the event that a notice of withdrawal is filed by the attorney or agent of record, the file will be forwarded to the appropriate official for decision on the request. The **withdrawal is effective when approved** (emphasis included) rather than when received.

MPEP § 711.03(c) states, *in pertinent part*:

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. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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).

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

ANALYSIS OF THE PETITION PURSUANT TO RULE § 1.181

The showing in this renewed petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that he failed to receive the Notice of Allowance and Issue Fee Due.

As set forth in the decision on the original petition, the timeline of relevant events is as follows:

- November 22, 2005: a request for withdrawal of power of attorney was filed by the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner LLP (Finnegan). The request further set forth that all future correspondence should be sent to "Jeff Toler, IP Legal Services, 5000 Plaza on the Lake, Suite 265, Austin, Texas, 78746" (IP Legal Services).
- September 8, 2006: a decision was mailed on this request, indicating that the request was not approved. The decision was mailed to the address of record (Finnegan), and a copy was mailed to IP Legal Services.
- September 21, 2006: a Notice of Allowance and Issue Fee Due was mailed to Finnegan.
- January 22, 2007: a Notice of Abandonment was mailed to Finnegan.

In the original petition, Petitioner asserted that the application "is not in fact abandoned" because the Notice of Allowance and Issue Fee Due was not timely received by Petitioner (Jeffrey G. Toler, formerly of IP Legal Services).

The decision on the original petition set forth, *in pertinent part*:

> It is further noted in passing that although Finnegan attempted to change the correspondence address to IP Legal Services with the submission of November 22, 2005, this request was improper. Finnegan attempted to file both the request for withdrawal of power of attorney and the change of correspondence address as a single submission. This was improper, pursuant to 37 C.F.R. §1.4(c).
>
> Petitioner has further set forth that he became aware of both the Notice of Allowance and Issue Fee Due and the notice of abandonment upon receiving a letter from Finnegan on February 7, 2007, which included a copy of the Notice of Abandonment. Consequently, he was not aware of the Notice of Allowance and Issue Fee Due until after the expiration of the period for response.
>
> As such, Petitioner has indicated that the Office communication in question was not received by the practitioner. Petitioner has further included a declaration of facts which includes a statement which implies that a search of the file jacket and

> docket records indicates that the Office communication was not received (from Finnegan). Finally, Petitioner has included a copy of the docket record where the nonreceived Office communication would have been entered had it been received (from Finnegan) and docketed.
>
> Clearly, Petitioner is attempting to meet the requirements of Delgar v. Schulyer, as delineated in MPEP §711.03(c)(I)(A), reproduced above. However, the Delgar requirements are not relevant to the pertinent case, in that the Office did not mail the relevant communication to Petitioner. In Delgar, the Office mailed a notice of allowance to the applicant, and the Delgar showing provides a mechanism by which applicants can establish that a mailing was not received from the Office. Petitioner is attempting to establish that a mailing was not received from another law firm, a situation which is outside of the scope of Delgar.
>
> Emphasis included.

With this renewed petition, Petitioner has alleged that the Office failed to properly mail the notice. Such is not the case. As set forth in the decision on the original petition, the request to change the correspondence address could not be acted upon, pursuant to Rule § 1.4(c). Finnegan improperly combined the request for withdrawal of power of attorney with the change of correspondence address, and placed each of these distinct matters on the same sheet of paper.

Consequently, the Office properly continued to send correspondence to the official address of record - Finnegan.

Petitioner will note that the decision on the request to withdraw as attorney or agent, mailed on September 8, 2006, explicitly set forth "all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant."

It is noted that a copy of this decision was mailed to Petitioner, and as such, **Petitioner should have been well aware of the fact that the Office had not changed the address of record.**

Petitioner appears to be suggesting that Finnegan failed to promptly notify Petitioner of both the subsequently mailed notice of allowance and issue fee due, and the notice of abandonment. As unfortunate as this alleged failure to communicate may be, this alleged lack of notification from Finnegan does not necessitate the withdrawal of the holding of abandonment.

Petitioner has further asserted that Finnegan's request for withdrawal of power of attorney was not a petition, but rather was a mere letter[4]. Such is not the case. 37 C.F.R. § 1.36(b) sets forth that "a registered patent attorney or patent agent who has been given a power of attorney pursuant to § 1.32(b) may withdraw as attorney or agent of record **upon application to and approval by the Director**…" (emphasis added). As such, a petition is required to effectuate the same, and consequently, Finnegan's submission was a petition.

Petitioner has further requested that in the "interest of 'fair administration of the law by the Patent Office,'" the Office should re-mail the notice and set a new period for response. The Office has a well-established and well-publicized procedure by which practitioners may change the correspondence address that is associated with a particular application. Similarly, the Office has a well-established and well-publicized procedure that requires "each distinct subject, inquiry or order" to be "contained in a separate paper." There is nothing that is not "fair' about requiring practitioners to abide by these procedures.

Moreover, the Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions[5]. Specifically, applicant'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[6].

Furthermore, the actions of the attorney are imputed to the client, for when an applicant voluntarily chooses an attorney to represent him, the applicant 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[7]."

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4 The relevance of this issue to the question of whether the holding of abandonment should be withdrawn, is not understood.
5 Link v. Wabash, 370 U.S. 626, 633-634 (1962).
6 Haines, 673 F.Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32; 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. 103, 131 (Comm'r Pat. 1891).
7 Link at 633-634.

It follows that the petition pursuant to Rule § 1.181 must be dismissed.

ANALYSIS OF THE PETITION PURSUANT TO RULE § 1.137(a)

The relevant standard:

Nonawareness of a PTO rule will not constitute unavoidable delay[8]

The burden of showing the cause of the delay is on the person seeking to revive the application[9].

"[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."[10]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[11]

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[12].

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

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8 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

9 Id.

10 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

11 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

12 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

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[13].
A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[14]."

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:

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[15]."

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[16]."

Analysis:

With the present petition, Petitioner has submitted the issue fee. The fee associated with the filing of this petition has been charged to Petitioner's Deposit Account, as authorized in the petition. Consequently, Petitioner has met requirements (1) and (2) of Rule § 1.137(a). The fourth requirement is not applicable. The third requirement will be discussed below.

As set forth above, Finnegan submitted a request to withdraw as attorney on November 22, 2005, and this request was not granted. The present application became abandoned on December 22, 2006. A Notice of Abandonment was mailed on January 22, 2007. The General Counsel of the Assignee executed a Power of Attorney, revoking all previous powers of attorney and appointing Petitioner. This Revocation and Power of Attorney was submitted pursuant to MPEP § 402.07 to the Office on June 6, 2007, revoking Finnegan's Power of Attorney and appointing Petitioner as attorney of record.

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13 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).
14 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
15 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
16 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

Consequently, Petitioner was not the attorney of record until June 6, 2007. Prior to that time, Finnegan remained the attorney of record.

With the present petition, Petitioner has asserted that the entire period of delay was unavoidable, since Petitioner was not aware of the mailing of the Notice of Allowability and Issue Fee Due. However, the mailing of this notice, the failure to timely respond to the same, the abandonment of the present application, and the mailing of the notice of abandonment are each events which transpired prevenient to the appointment of Petitioner as attorney of record. Consequently, the fact that he was not aware of an event during a period that was prior to his appointment as attorney of record cannot give rise to an unavoidable delay.

Moreover, the Revocation and Power of Attorney has been reviewed, and it is clear that it was executed on August 8, 2006. Yet it appears that the document was not submitted to the Office for another 10 months, since the filing was not received until June 6, 2007. Had this document been promptly submitted to the Office, it is highly likely that the paper would have been entered, the address of record would have been changed, and the Notice of Allowance and Issue Fee Due would have been mailed to Petitioner. As such, it appears that the abandonment of the present application could have been avoided by the prompt submission of this filing.

It follows that the petition pursuant to Rule § 1.137(a) must be dismissed.

ANALYSIS OF THE PETITION PURSUANT TO RULE § 1.137(b)

Regarding the third requirement of Rule § 1.137(b)(3), the Rule 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 instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

The present application went abandoned 6 months before Petitioner became the attorney of record. As such, **it is not apparent that 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**[17].

Furthermore, it appears that Finnegan, the attorneys of record prior to the abandonment of this application, received a notice of allowance and neither responded to the same nor alerted Petitioner of this requirement. **It will be presumed by the Office that Petitioner has been in contact with Finnegan, and has confirmed that the abandonment was not intentional.**

In the event that these inquiries have not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, Petitioner must notify the Office.

With the present petition, Petitioner has submitted the issue fee. The fee associated with the filing of this petition has been charged to Petitioner's Deposit Account, as authorized in the petition. Petitioner has further included a statement that is being construed as the proper statement of unintentional delay. Consequently, Petitioner has met requirements (1) - (3) of Rule § 1.137(b). The fourth requirement is not applicable.

As such, the petition pursuant to Rule § 1.137(b) is granted.

CONCLUSION

The renewed petition pursuant to Rule § 1.181 is **DISMISSED.**

The petition pursuant to Rule § 1.137(a) is **DISMISSED.**

The petition pursuant to Rule § 1.137(b) is **GRANTED.**

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

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17 See 37 CFR 10.18(b); cf. 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).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[18]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Lei et al.	:	
Application No. 10/763,583	:	DECISION ON PETITION
Filed: 23 January, 2004	:	
Attorney Docket No. 50277-2408	:	

This is a decision on the petition filed on 20 October, 2004, requesting that the above-identified application be accorded a filing date which is treated as a petition requesting that above-identified application, including two (2) sheets of drawings, be accorded a filing date of 23 January, 2004.

The petition is granted.

On 23 January, 2004, the application was filed.

On 6 October, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that application should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings.

In response, on 20 October, 2004, the present petition and a copy of two (2) sheets of drawings, were filed. Petitioners argue that two (2) drawing sheets was filed with the other application papers on 23 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 stamp dated 23 January, 2004, and showing 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*, two (2) sheets

of drawings. Petitioners request that the application, including the two (2) sheets of drawings, be accorded a filing date of 23 January, 2004.

A review of the record reveals that no sheets of drawings received on 23 January, 2004, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 23 January, 2004, included two (2) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including two (2) sheets of drawings, is entitled to a filing date of 23 January, 2004.

In view of the above, the petition is granted. The petition fee of $130.00 will be credited to counsel's deposit account, No. 50-1302.

The application will be processed with the copy of the two (2) sheets of drawings supplied on 20 October, 2004, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 23 January, 2004, using the application papers filed on that date, and the copy of two (2) sheets of drawings supplied with the present petition, and for an indication in Office records that two (2) sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 10/28/04 | 2 Serial/Patent # 10763583

	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		10/20/04	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 50--1302

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

PET DUE TO PTO error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: D WOOD TITLE: SR ATTY

SIGNATURE: [signature] PHONE: 3086918

OFFICE: OP

****

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APPROVED: [signature] DATE: 10/29/04

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Crystal Park One, Room 802B

FORM PTO 1577
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
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In re application of Marvin M. May Application No. 10/763,596 Filed: January 23, 2004 For: METHOD AND APPARATUS FOR REACHING FROM OUTSIDE AN UPPER LEVEL OF A TALL STRUCTURE	: : : : : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on November 8, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a copy of Mr. May's birth certificate indicating that he is at least 65 years of age.

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

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

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dew: 12/05/05

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DEC 1 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Deboer, et al.	:	
Application No. 10/763,597	:	DECISION
Filed: 23 January, 2004	:	
Attorney Docket No. 201448/351	:	

This is a decision on the petition filed on 4 September, 2009, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 1 June, 2009, with reply due under a non-extendable deadline on or before 1 September, 2009.

The application went abandoned by operation of law after midnight 1 September, 2009.

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

On 4 September, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of fees due and made the statement of unintentional delay.

The Office mailed the Notice of Abandonment on 17 September, 2009.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

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

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

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

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

It appears that the requirements under the rule have been satisfied.

CONCLUSION

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

The instant application is released to the Publication Branch to be processed into a patent 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 Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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Dennis M. Connolly, Ph.D.
INTEGRATED NANO-TECHNOLOGIES LLC
999 Lehigh Station Road
Suite 200
Henrietta, NY 14467-9311

Mail Date: 07/26/2010

Applicant	: Charles D. DeBoer	: DECISION ON REQUEST FOR
Patent Number	: 7645574	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/763,597	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **393** 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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RYAN, MASON & LEWIS, LLP
1300 POST ROAD, SUITE 205
FAIRFIELD, CT 96824

Mail Date: 04/21/2010

Applicant	: Daniel Bleichenbacher	: DECISION ON REQUEST FOR
Patent Number	: 7593526	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/763,601	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1625** 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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SHELDON & MAK
225 SOUTH LAKE AVENUE, 9TH FLOOR
PASADENA, CA 91101

In re Application of	:	
Casey Loyd et al	:	
Application No. 10/763,605	:	DECISION ON PETITION
Filed: January 22, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 14015-1	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed June 6, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

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

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

The application is being forwarded to the Technology Center Art Unit 3743 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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DUFT BORNSEN & FISHMAN, LLP
1526 SPRUCE STREET
SUITE 302
BOULDER, CO 80302

Mail Date: 05/03/2010

Applicant	: Jean Margaret Aschenbrenner	: DECISION ON REQUEST FOR
Patent Number	: 7663772	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/763,618	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1733** 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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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OFFICE OF PETITIONS

In re Application of	:	
Kentaro Yano et al	:	
Application No. 10/763,620	:	DECISION GRANTING PETITION
Filed: January 28, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 00862.023430.	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 17, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 18, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Petitions Examiner
Office of Petitions

---

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

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COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY, NJ 08855

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OFFICE OF PETITIONS

In re Application of	:
Alan V. Sorrentino et al	:
Application No. 10/763,621	: DECISION GRANTING PETITION
Filed: January 23, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. IR 7455-00	:

This is a decision on the petition, filed September 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2832 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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OFFICE OF PETITIONS

WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose CA 95113

In re Application of
Henry Derovanessian, et al.
Application No. 10/763,623
Filed: January 23, 2004
Docket No. SONY-50T5626.01

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed July 11, 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 July 1, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

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

The petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of March 9, 2006 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center Art Unit 2616 for further prosecution.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Yaacov Almog et al	:	
Application No. 10/763,625	:	DECISION ON PETITION
Filed: January 22, 2004	:	TO WITHDRAW
Attorney Docket No. 600204528-XUDS-A	:	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 28, 2005.

The request is **NOT APPROVED**.

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

The request cannot be approved because 37 CFR 10.40 states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" Additionally, 37 CFR 10.40 states, "i[f] paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because: [. . .]" Reasons a practitioner can permissively withdraw follow the later quotation.

Since the request for withdrawal as attorney or agent submitted on June 28, 2005 provides no reasons for withdrawal, 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 for Withdrawal as Attorney or Agent) to supply practitioner's reasons.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: William H. Dippert
Reed Smith LLP
599 Lexington Avenue, 29th Floor
New York, NY 10022-7650

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS MN 55439

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OFFICE OF PETITIONS

In re Patent No. 6,841,051	:	
Issue Date: 01/11/2005	:	
Application No. 10/763,627	:	DECISION ON PETITION
Filed: 01/23/2004	:	
Attorney Docket No. 225.007US01	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 7, 2009, to accept the unintentionally delayed payment of the maintenance fee for the above-identified patent.

The petition is **granted**.

The patent issued January 11, 2005. The grace period for paying the maintenance fee expired on January 12, 2009. This petition was filed timely under the provisions of 37 CFR 1.378(c) because it was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Accordingly, the maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

The $980.00 maintenance fee and the $1,640.00 surcharge have been charged to the Deposit Account as authorized.

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

The patent file is being forwarded to Files Repository.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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LAURENCE R LETSON
PO BOX 910567
LEXINGTON KY 40591

In re Application of
Russell Dennis :
Application No. 10/763,630 : DECISION ON
Filed: January 24, 2004 : PETITION
Attorney Docket No. RD9-03-001 :

This is in response to the petition to revive under 37 CFR 1.137(a), or in the alternative under 37 CFR 1.137(b), filed November 13, 2006.

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

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

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed April 4, 2006. 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 July 5, 2006. A Notice of Abandonment was mailed on October 25, 2006.

Petition Under 37 CFR 1.137(a):

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

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

Petitioner explains that during the time he was in the hospital for hip replacement surgery and during his recover, he had his wife process his incoming mail from the Patent Office. However, his wife misplaced the Office action in the wrong filed folder. While this error is one that was clearly "unintentional", it could have been avoided with the reasonable exercise of due care. Accordingly, the entire period of delay in the above-identified application can not be characterized as "unavoidable".

The petition fee required for a petition to revive is required for the filing, not merely the grant, of the petition.[3]

---

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

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 711.03(c)(II)(B).

Accordingly, the $250 petition fee has been charged to Deposit Account No. 12-1120, as authorized.

Petition Under 37 CFR 1.137(b):

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).

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

The $750 petition fee has been charged to Deposit Account No. 12-1120, as authorized.

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

The application file is being forwarded to the Group Art Unit 3679 for consideration of the Amendment, filed November 13, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Laurence R. Letson
2 Sextant Drive
Salem, SC 29676

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

Mail Date: 04/26/2010

Applicant	: Edward Eytchison	: DECISION ON REQUEST FOR
Patent Number	: 7594121	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/763,654	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **934** 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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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO IL 60603-5803

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OFFICE OF PETITIONS

In re Application of	:	
Tomoyuki Tachikawa et al	:	
Application No. 10/763,657	:	DECISION ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. TJK/446	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 1, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on October 4, 2005 (October 1, 2005, the due date, is a Saturday). A Notice of Abandonment was mailed on February 9, 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 an Amendment and Response, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of July 1, 2005 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2822 for appropriate action in the normal course of business on the reply received February 13, 2007.

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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JOHN J. OSKOREP, ESQ.
ONE MAGNIFICENT MILE CENTER
980 NORTH MICHIGAN AVENUE
SUITE 1400
CHICAGO, IL 60611

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OFFICE OF PETITIONS

In re Application of	:	
Dennis Michael Kazar et al	:	
Application No. 10/763,658	:	DECISION ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. 0901-0017	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 5, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 2, 2006. Accordingly, the date of abandonment of this application is September 6, 2006. A Notice of Abandonment was mailed on October 4, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

In re Application of	:	
Frederic Perriot	:	DECISION ON PETITION
Application No. 10/763,673	:	TO WITHDRAW
Filed: January 22, 2004	:	FROM RECORD
Attorney Docket No. 20423-08166	:	

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 3, 2004.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on November 15, 2004 the power of attorney to Symantec/ Fenwick was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Andrew Halliday	: DECISION ON REQUEST FOR
Patent Number	: 7640843	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/763,680	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **689** 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
www.uspto.gov

Roger Pitt
Kirkpatrick & Lockhart Nicholson Graham LLP
599 Lexington Avenue
3rd Floor
New York, NY 10022-6030

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OFFICE OF PETITIONS

In re Application of	:	
Salvatore Atzeni et al.	:	
Application No. 10/763,681	:	DECISION ON PETITION
Filed: January 23, 2004	:	TO WITHDRAW
Attorney Docket No. ATZENI-NP	:	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 27, 2006.

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

A review of the file record indicates that the power of attorney to Roger Pitt and attorney(s) and/or agent(s) of record have been revoked by the applicants of the patent application on April 17, 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 Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Anthony H. Handal, Esq.
Brown Rudnick Berlack Israels LLP
Seven Times Square
New York, NY 10036

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FISH & RICHARDSON P.C.
45 ROCKEFELLER PLAZA, SUITE 2800
NEW YORK NY 10111

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of	:
Beeman et al.	: DECISION GRANTING
Application No. 10/763,682	: PETITION
Filed: 23 January, 2004	:
Attorney Docket No. 16785-007001	:

This is a decision on the petition filed on 6 July, 2004, which is treated as a petition requesting that the above-identified application, without drawings, be accorded a filing date of 23 January, 2004.

The application was filed on 23 January, 2004, without drawings.[1] Accordingly, on 4 May, 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. A two (2) month period for reply was set. The Notice also stated that the oath or declaration was missing.

In response, on 6 July, 2004,[2] petitioners filed the present petition, accompanied by, *inter alia*, 10 sheets of drawings. Petitioners concede that the drawings were inadvertently omitted when the present application was filed, but state that the first 11 figures of 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

---

[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] 4 July, 2004, fell on a Sunday, and 5 July, 2004, fell on a Federal holiday, so the response filed on 6 July, 2004, was timely filed. See 37 CFR 1.7(a).

under 35 U.S.C. 113 (first sentence).[3] A review of the record reveals that Claims 20, 29, and 30 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. 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, no petition fee is due and none has been charged.

The "Notice of Incomplete Nonprovisional Application" mailed on 4 May, 2004, was sent in error and is hereby vacated.

The application will be processed and examined using only the application papers filed on 23 January, 2004. The 10 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 10 sheets of drawings are not new matter if they were a part of the disclosure of the prior application.

Petitioners should file the 10 sheets of drawings as a preliminary amendment. If the 10 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 23 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

---

[3] MPEP 601.01(f).

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SYNTHES
1302 WRIGHTS LANE EAST
WEST CHESTER, PA 19380

Mail Date: 04/21/2010

Applicant	: Alberto Angel Fernandez	: DECISION ON REQUEST FOR
Patent Number	: 7637928	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/763,689	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1138** 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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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP ADDRESS: BANK ONE CENTER/TOWER
SUITE 3700
111 MONUMENT CIRCLE
INDIANAPOLIS IN 46204-5137

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OFFICE OF PETITIONS

In re Patent No. 6,896,947	:	
Issued: May 24, 2005	:	
Application No. 10/763,697	:	ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No: 7272-46	:	

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed September 6, 2006 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 the petition is **GRANTED**. 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

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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SOLAZYME, INC.
3475 - T Edison Way
Menlo Park CA 94025

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Dillion Harrison	:	
Application No. 10/763,712	:	ON PETITION
Filed: January 21, 2004	:	
Attorney Docket No. H2042101-CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 4, 2005, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country. Petitioner indicates that 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.

A petition to revive an application abandoned pursuant to
35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) 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(f). The nonpublication request has been rescinded.

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

A Corrected Filing Receipt which sets forth the projected publication date accompanies this

decision on petition.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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

NOV - 9 2005

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

In re Application of Daniel Chien, et al. Application No. 10/763,714 Filed: January 23, 2004 For: INBOARD BRAKING TRAILER WHEEL END ASSEMBLY	: : : : :	DECISION ON PETITION TO WITHDRAWL OF HOLDING OF ABANDONMENT

This in reply to the letter received in the United States Patent and Trademark Office (USPTO), on August 31, 2005, requesting withdrawal of abandonment. This letter is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. There is no fee associated with this petition.

The petition is **GRANTED**.

A review of the application file reveals that the Notice of Abandonment mailed July 7, 2005, specified that the application had become abandoned because the Office had received no reply to the Final rejection mailed December 30, 2004, in which a three-month shortened statutory period for response was given.

A review of the record indicates that a timely filed Notice of Appeal was received on July 5, 2005, along with a valid Certificate of Mailing dated June 29, 2005 and a petition for a three-month extension of time. Thus abandonment was premature.

The Office apologizes for the erroneous Notice of Abandonment.

The application will be forwarded to the Supervisory Legal Instruments Examiner to withdraw the abandonment and restore the application to pending status, before being returned to the examiner for an expeditious Action.

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

KJD/bkg: 10/25/05

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/763,719	01/23/2004	3738	1464	4002-3456/PC261.21	19	49	5

CONFIRMATION NO. 7326

CORRECTED FILING RECEIPT

OC000000013010170

Woodard, Emhardt, Moriarty,
McNett & Henry LLP
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

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)

Thomas Zdeblick, Middleton, WI;
Thomas McGahan, Memphis, TN;

Domestic Priority data as claimed by applicant

This application is a DIV of 10/213,864 08/07/2002 PAT 6,695,851
which is a DIV of 09/781,589 02/05/2001 PAT 6,471,724
which is a DIV of 09/014,901 01/28/1998 PAT 6,206,922
which is a CIP of 08/604,874 02/22/1996 ABN
which is a CIP of 08/411,017 03/27/1995 PAT 5,782,919

Foreign Applications

If Required, Foreign Filing License Granted: 04/28/2004

Projected Publication Date: 08/05/2004

Non-Publication Request: No

Early Publication Request: No

Title

Methods and instruments for interbody fusion

Preliminary Class

623

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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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: Thomas Zdeblick	: DECISION ON REQUEST FOR
Patent Number	: 7621958	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/763,719	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **747** 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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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 05/18/2010

Applicant : Thomas Zdeblick
Patent Number : 7621958
Issue Date : 11/24/2009
Application No : 10/763,719
Filed : 01/23/2004

: 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 **801** 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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NOV 14 2005

OFFICE OF PETITIONS

DEVON A. ROLF
GARMIN INTERNATIONAL, INC.
1200 EAST 151ST STREET
OLATHE, KS 66062

In re Application of	:
Jay Dee Krull et al	:
Application No. 10/763,724	: DECISION GRANTING PETITION
Filed: January 23, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 702.322	:

This is a decision on the petition, filed November 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that petitioner herein, Mr. Thomas B. Luebbering, was ever given a power of attorney to act in this application. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Luebbering appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If Mr. Luebbering desires to receive correspondence regarding this file, the appropriate power of attorney

---

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

documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Luebbering; however, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

This matter is being referred to Technology Center AU 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Thomas B. Lubbering
Hovey Williams LLP
2405 Grand Boulevard, Suite 400
Kansas City, MO 64108

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OFFICE OF PETITIONS

DAVID L. TERRELL
GARMIN INTERNATIONAL, INC.
1200 EAST 151ST STREET
OLATHE KS 66062

In re Application of	:	
Jay Dee Krull et al	:	
Application No. 10/763,724	:	ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. 702.322	:	

This is a decision on the petition, filed January 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 9, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3661 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

MAILED

MAY 28 2004

Director's Office
Group 3700

Mike Majchrzak
2522 S. 29th Street
Milwaukee, Wisconsin 53215

In re application of Majchrzak et al.	: : :	**DECISION ON PETITION** **TO MAKE SPECIAL** **UNDER 37 CFR. 1.102(c)**
Serial Number: 10/763726 Filed: January 22, 2004	: :	

For: **FOOD CONTAINER**

This is a decision on the petition filed on January 23, 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: 5/26/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/763,726	01/23/2004	3742	1089	032016-0128	5	41	8

CONFIRMATION NO. 7340
CORRECTED FILING RECEIPT
OC000000017316415
OC000000017316415

26371
FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE, WI 53202-5308

Date Mailed: 10/24/2005

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)

Michael Majchrzak, Milwaukee, WI;
Allan Witt, Lenoir, NC;
David Rolston, Milwaukee, WI;

Assignment For Published Patent Application

Hatco Corporation

Power of Attorney: The patent practitioners associated with Customer Number **26371**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/28/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/763,726

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

FOOD CONTAINER

Preliminary Class

219

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE, SUITE 3800
MILWAUKEE, WI 53202-5308

COPY MAILED

NOV 1 6 2005

OFFICE OF PETITIONS

In re Application of	:
Michael Majchrzak et al	:
Application No. 10/763,726	: DECISION GRANTING PETITION
Filed: January 23, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0312016-0128	:

This is a decision on the petition, filed November 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3742 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JAMES HARLAN
4412 HAWKHURST DRIVE
PLANO TX 75024

COPY MAILED

OCT 1 1 2006

OFFICE OF PETITIONS

In re Application of John Clemens Ellis et al Application No. 10/763,739 Filed: January 26, 2004 For: SYSTEM AND METHOD FOR PERSONNEL ACCOUNTABILITY RECORDING	: : : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 18, 2005.

The petition is **NOT APPROVED.**

A review of the file record indicates that no power of attorney was ever submitted for the above application. Therefore, James Harlan does not have power of attorney in this patent 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). Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

All future communications from the Office will be directed to the **first** named signing inventor at the **below** address until otherwise properly notified by the applicant/assignee.

Telephone inquiries concerning this decision should be directed to Karen Creasy at 571-272- 3208.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
JOHN CLEMENS ELLIS
45958 DUCHESS DRIVE
CHESTERFIELD TOWNSHIP, MI 48051

DO NOT ENTER: /S.C./

C of C

OIPE IAP17
FEB 04 2008
PATENT & TRADEMARK OFFICE

TRANSMISSION CERTIFICATE

I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office on **February 1, 2008** by United States Mail.

Geri O'Connor

Geri O'Connor

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. 1.322			Docket No. **OCT016USTP01**
Serial No. **10/763,744**	Filing Date **July 28, 2005**	Patent Number **7,270,626**	Issue Date **September 18, 2007**
Applicant:	**Octane Fitness, LLC**		
Invention:	**EXERCISE EQUIPMENT WITH AUTOMATIC ADJUSTMENT OF STRIDE LENGTH AND/OR STRIDE HEIGHT BASED UPON DIRECTION**		

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

Certificate
FEB 07 2008
of Correction

Dear Sir:

Applicant respectfully requests the issuance of a Certificate of Correction under 37 C.F.R. 1.322. All corrected mistakes are of a clerical or typographical nature and were made by the Patent Office. No fee is enclosed.

Respectfully submitted,

Date 01 Feb 08

By

Michael S. Sherrill, #32,302
SHERRILL LAW OFFICES, PLLC
4756 Banning Avenue, Suite 212
White Bear Lake, Minnesota 55110
(651) 426-2400

RECEIVED-USPTO
Patent Publication
FEB 7 2008

DO NOT ENTER: /S.C./

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,270,626

APPLICATION NO.: 10/763,744

ISSUE DATE : 9/18/2007

INVENTOR(S) : Timothy J. Porth

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

Column 13, line 51, insert the text --end-- after the text "attached" and before the text "to the respective".

Column 14, line 14, insert --,-- after the text "path" and before the text "(f)".

MAILING ADDRESS OF SENDER (Please do not use customer number below):

SHERRILL LAW OFFICES, PLLC
4756 Banning Avenue, Suite 212
White Bear Lake, MN 55110

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.**

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Patent Publication

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

FEB 7 2008

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/8/08

Paper No.: —

TO SPE OF : ART UNIT 3764

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/763744 Patent No: 7270626B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

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:
(1) The Column 13 insertion request makes no sense.
(2) The Column 14 request already contains the "correction" to the alleged error.

Exr. Crow

LOAN H. THANH
SUPERVISORY PATENT EXAMINER
SPE

3764
Art Unit

DO NOT ENTER: /S.C./

C of C

OIPE IAP17
FEB 04 2008
PATENT & TRADEMARK OFFICE

TRANSMISSION CERTIFICATE

I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office on February 1, 2008 by United States Mail.

Geri O'Connor

Geri O'Connor

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. 1.322			Docket No. OCT016USTP01
Serial No. 10/763,744	Filing Date July 28, 2005	Patent Number 7,270,626	Issue Date September 18, 2007
Applicant:	Octane Fitness, LLC		
Invention:	EXERCISE EQUIPMENT WITH AUTOMATIC ADJUSTMENT OF STRIDE LENGTH AND/OR STRIDE HEIGHT BASED UPON DIRECTION		

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

Certificate
FEB 07 2008
of Correction

Dear Sir:

Applicant respectfully requests the issuance of a Certificate of Correction under 37 C.F.R. 1.322. All corrected mistakes are of a clerical or typographical nature and were made by the Patent Office. No fee is enclosed.

Respectfully submitted,

Date 01 Feb 08

By

Michael S. Sherrill, #32,302
SHERRILL LAW OFFICES, PLLC
4756 Banning Avenue, Suite 212
White Bear Lake, Minnesota 55110
(651) 426-2400

RECEIVED-USPTO
Patent Publication
FEB 7 2008

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PTO/SB/44 (09-07)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,270,626

APPLICATION NO.: 10/763,744

ISSUE DATE : 9/18/2007

INVENTOR(S) : Timothy J. Porth

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

Column 13, line 51, insert the text --end-- after the text "attached" and before the text "to the respective".

Column 14, line 14, insert --,-- after the text "path" and before the text "(f)".

MAILING ADDRESS OF SENDER (Please do not use customer number below):

SHERRILL LAW OFFICES, PLLC
4756 Banning Avenue, Suite 212
White Bear Lake, MN 55110

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.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

July 7, 2009

Michael S. Sherrill
Sherrill Law Offices, PLLC
4756 Banning Avenue, Suite 212
White Bear Lake, MN 55110

Patent No: 7,270,626 B2
Application No: 10/763,744
Applicant: Timothy J. Porth
Issued: September 18, 2007
Title: **EXERCISE EQUIPMENT WITH AUTOMATIC ADJUSTMENT OF STRIDE LENGTH AND/OR STRIDE HEIGHT BASED UPON DIRECTION OF FOOT SUPPORT ROTATION**

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 or 1.323.

The errors purported to be in column 13, line 51 cannot be corrected: Per the examiner "the insertion requested makes no sense, and the column 14 request already contains the correction to the alleged error

In view of the foregoing your request in this matter is hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & certificated of Correction Branch.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(703) 756-1591

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 27 2007

OFFICE OF PETITIONS

WYATT, TARRANT & COMBS, LLP
1715 AARON BRENNER DRIVE
SUITE 800
MEMPHIS TN 38120-4367

In re Application of	:	
Herbage et al.	:	
Application No.: 10/763789	:	DECISION ON
Filing or 371(c) Date: 01/23/2004	:	PETITION
Attorney Docket Number: A310429.2US	:	

This is a decision in response to the Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office action, filed January 31, 2007. The petition is properly treated under 37 CFR 1.181. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed June 7, 2006. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on July 8, 2006. A Notice of Abandonment was mailed January 18, 2007.

Petition under 37 CFR 1.181

Applicant files the instant petition and asserts non-receipt of the Office communication. Applicant states that all patent applications are routed through a central docketing clerk in the Memphis, Tennessee Office. The clerk also conducted a search of the application's file and docket entries and found no record of the June 7, 2006 Office communication.

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

Office records reveal that there are Offices of Wyatt, Tarrant, & Combs, LLP, in Nashville and Memphis, Tennessee, and in Louisville, Kentucky. Office records reveal that Ms. Hills' Office is in Louisville, Kentucky. Ms. Hill affirms that the Office action was never received by Wyatt, Tarrant, & Combs, LLP, but Ms. Hill states that all patent applications are routed through a central docketing clerk in the Memphis, Tennessee Office. Petitioner is not at the correspondence address of record, and is thus not in a position to know whether the correspondence was received at the correspondence address of record. Nor has Petitioner filed a statement from the docket clerk – a person with firsthand knowledge of whether the Office communication was received at the correspondence address of record.

Moreover, it is apparent from the record that Applicant routes all patent related correspondence through the Memphis, Tennessee Office. Thereafter, the correspondence is forwarded to the appropriate Office of Wyatt, Tarrant, & Combs, LLP, in either Nashville or Memphis, Tennessee, or Louisville, Kentucky. As such, 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.

Conclusion

Applicant has failed to overcome the presumption that the correspondence was received at the correspondence address of record. The petition is dismissed.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WYATT, TARRANT & COMBS, LLP
1715 AARON BRENNER DRIVE
SUITE 800
MEMPHIS TN 38120-4367

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AUG 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Herbage et al.	:	
Application No.: 10/763789	:	DECISION ON
Filing or 371(c) Date: 01/23/2004	:	PETITION
Attorney Docket Number: A310429.2US	:	

This is a decision in response to the Renewed Petition under 37 C.F.R. § 1.181," filed June 21, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed June 7, 2006. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on July 8, 2006. A Notice of Abandonment was mailed January 18, 2007.

With the present renewed petition, Applicant has demonstrated non-receipt of the Office communication by a preponderance of the evidence.

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

No petition fee has been charged, and none is due.

The application will be referred to the Technology Center Art unit 3641 for re-mailing of the Office communication.

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

Derek L. Woods
Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/763,798	01/23/2004	1775	428	S1011/20171	3	19	4

CONFIRMATION NO. 7933

CORRECTED FILING RECEIPT

OC000000013847516

03000
CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
PHILADELPHIA, PA 19103-2212

Date Mailed: 09/21/2004

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)

Joshua William Johnson, West Midlands, UNITED KINGDOM;

Assignment For Published Patent Application

The Potting Shed Pottery Limited, Kingswinford, UNITED KINGDOM

Power of Attorney: The patent practitioners associated with Customer Number **03000**.

Domestic Priority data as claimed by applicant

Foreign Applications

UNITED KINGDOM 0321673.6 09/16/2003

If Required, Foreign Filing License Granted: 04/28/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/763,798

Projected Publication Date: 03/17/2005

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Ornaments

Preliminary Class

428

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

GRANTED

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-21-10

Paper No.: _____

TO SPE OF : ART UNIT 3687

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/763,803 Patent No.: 7,647,255

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

FOR IFW FILES: Check Drawings

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ennis Young LIE
Randolph Sq. Ste 9D62A
703-756-1542

Thank You For Your Assistance

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

☒ **Approved** — **All** changes apply.

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

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

_____

_____

_____

SPE /Matthew S Gart/ **ART UNIT** 3687

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 07/15/2010

Applicant	: Jihua Wang	: DECISION ON REQUEST FOR
Patent Number	: 7647255	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/763,803	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1756** 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.

Robert E. Krebs
THELEN REID & PRIEST LLP
P.O. Box 640640
San Jose CA 95164-0640

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AUG 2 9 2008

OFFICE OF PETITIONS

In re Application of :
Ryan Riley : DECISION ON PETITION
Application No. 10/763,808 :
Filed: January 22, 2004 :
Attorney Docket No. 035813-004:

This is a decision on the "Petition Under 37 C.F.R. 1.181(a) to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" filed February 19, 2008. In the alternative, applicant files a PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b).

The petition under 1.181(a) is **DISMISSED**.

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

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed December 4, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply was received and no extension of time was obtained. The application became abandoned on March 5, 2007. A courtesy Notice of Abandonment was mailed on February 1, 2008.

In response, applicants filed the instant petition, asserting that applicants never received the Office action. (It is acknowledged that a status letter was previously filed by attorney Krebs on October 1, 2007).

PETITION UNDER 1.181(a)

A review of the application file reveals no irregularities in the mailing of the Office action on December 4, 2006. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The following showing is required:

> 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 adequately supported his claim of non-receipt with such evidence. With respect to the practitioner, petitioner provides a copy of their mail log and a printout from their docketing system showing all activity entered into this system for this application. However, petitioner states that "applicants searched their file and the file jacket." Petitioner clearly does not state 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. This omission in the statement suggests that the applicants' file or file jacket would be

distinct from that of the practitioner's file or file jacket. It is also noted that no statement is presented from attorney Krebs, the practitioner to whom the Office action was addressed and who is referred to in the petition. Having considered the evidence submitted, it is not found adequate to meet the required showing of nonreceipt.

PETITION UNDER 37 CFR 1.137(b)

Petitioner has met the requirements for revival under 37 CFR 1.137(b). The petition includes the required reply in the form of an amendment, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required.

Technology Center AU 2192 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment submitted on petition filed February 19, 2008.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Timothy J. Oyer, Ph.D.
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

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MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of
Bamdad et al.
Application No. 10/763,810
Filed: January 23, 2004
Attorney Docket No. M1015.70054US01
For: Detection of Binding Species With Colloidal and Non-Colloidal Structures

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed December 2, 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.

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

The Office of Initial Patent Examination will be informed of the instant decision.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Shoshana Bamdad Shendelman
275 West 96th
Apt 18F
New York, NY 10025

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MAR 2 5 2005

OFFICE OF PETITIONS

Letter

In re Application of
Bamdad et al.
Application No. 10/763,810
Filed: January 23, 2004
Attorney Docket No. M1015.70054US01
For: Detection of Binding Species With Colloidal and Non-Colloidal Structures

Ms. Shendelman:

You are named as a joint inventor in the above identified United States patent application.

Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you, or a registered patent attorney or agent on your behalf, have the right to obtain copies of any papers which are part of the file wrapper. 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).

General requests for information regarding the application should be directed to the File Information Unit at (703)308-2733.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: Timothy J. Oyer, Ph.D.
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

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JHK Law
P. O. Box 1078
La Canada CA 91012-1078

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OCT 08 2009

OFFICE OF PETITIONS

In re Application of	:	
BAMDAD et al.	:	
Application No. 10/763,810	:	DECISION ON PETITION
Filed: 01/23/2004	:	
Attorney Docket No. M1015.70054US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 2009, to revive the above-identified application.

Accordingly, the petition is **GRANTED.**

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed February 5, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on April 6, 2007. See MPEP 1215.04. A Notice of Abandonment was mailed on February 25, 2008.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a Request for Continued Examination and submission, paid the petition fee, and made the proper statement of unintentional delay.

The Office notes that 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). As the $865.00 extension of time fee submitted with the petition on April 6, 2009, was filed after the maximum extendable period for reply, this fee is unnecessary and will be refunded.

This matter is being referred to Technology Center Art Unit 1655.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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WOLF, GREENFIELD & SACKS, P.C.
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BOSTON, MA 02210

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of Tao Deng et al Application No. 10/763,819 Filed: January 23, 2004 Attorney Docket No. H0498.70130US01/TJO	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed May 9, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 1756 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\May10\763819.wpd

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

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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 04/22/2010

Applicant	: Tapani Ryhanen	: DECISION ON REQUEST FOR
Patent Number	: 7606400	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/763,821	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1577** 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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JOHN F. LETCHFORD
ARCHER & GREINER, P.C.
ONE CENENNIAL SQUARE
HADDONFIELD, NJ 08033

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MAR 07 2007

OFFICE OF PETITIONS

In re Application of Bruce A. Rogers et al Application No. 10/763,846 Filed: January 23, 2004 Attorney Docket No. 08859-0009B	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

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

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly since the $510 extension of time submitted with the petition on November 1, 2006, was subsequent to the maximum period obtainalbe for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 3732.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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SEP 2 5 2008

OFFICE OF PETITIONS

In re Application of
Edward Eytchison
Application No. 10/763,869
Filed: January 22, 2004
Attorney Docket No. Sony-05000

: ON PETITION

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

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

This application became abandoned for failure to file a timely response to the "Notice under 37 CFR 1.251—Pending Application" mailed August 25, 2005, which set a shortened period for reply of three month from its mailing date. Extensions of time under 37 CFR 1.136(a) were available. The notice required applicant to file a duplicate copy of an Information Disclosure Statement and References that was first filed February 7, 2005. No response was received within the allowable period and the application became abandoned on November 25, 2005. A Notice of Abandonment was mailed April 18, 2008.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a 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

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the Notice of Non-Compliant Amendment was not received.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reasons petitioner's argument must necessarily fail are addressed below.

Petitioner states that the IDS and references were resent to the USPTO on September 14, 2005, and that was the last communication petitioner had with the USPTO until January 23, 2007, when petitioner was informed that the IDS was still not of record and the papers were sent again. Notwithstanding, the application became abandoned by operation of law on November 26, 2005, yet petitioner delayed filing the instant petition for almost three years. As a successful petition under 37 CFR 1.137(a) requires that petitioner demonstrate that the entire delay—beginning from the due date for the reply to the filing of a grantable petition was unavoidable petitioner must explain the delay in filing the instant petition. The renewed petition must establish that the entire delay in responding to the "Notice under 37 CFR 1.251—Pending Application" was unavoidable.

In the alternative, petitioner may consider filing a petition to withdraw the holding of abandonment based on the premises that a timely response was sent to the Office and received. See MPEP 711.03. The petition to withdraw the holding of abandonment does not require that petitioner that entire that delay in filing the petition was unavoidable, but petitioner must only establish that a timely response to the Office communication was filed. There is no fee for the petition to withdraw the holding of abandonment.

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

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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.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JONATHAN O. OWENS
HAVERSTOCK & OWENS
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

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OFFICE OF PETITIONS

In re Application of

Edward Eytchison

Application No. 10/763,869

Filed: January 22, 2004

Attorney Docket No. Sony-0500

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed October 7, 2008.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application became abandoned for failure to file a timely response to the "Notice under 37 CFR 1.251—Pending Application" mailed August 25, 2005, which set a shortened period for reply of three month from its mailing date. Extensions of time under 37 CFR 1.136(a) were available. The notice required applicant to file a duplicate copy of an Information Disclosure Statement and References that was first filed February 7, 2005. No response was received within the allowable period and the application became abandoned on November 25, 2005. A Notice of Abandonment was mailed April 18, 2008.

Petitioner states that a duplicate copy of an Information Disclosure Statement and References was filed on September 16, 2005. An Office date-stamped postcard whereby the USPTO acknowledged receiving the response on September 16, 2005, accompanied the petition[1]. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 2100, GAU 2154, for further processing

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] It is noted that a copy of the Information Disclosure Statement and References accompanied the petition and contained a certificate of mailing under 37 CFR 1.8 dated September 14, 2005.

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ARCHER & GREINER, P.C.
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HADDONFIELD, NJ 08033

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OFFICE OF PETITIONS

In re Application of

Bruce A. Rogers :

Application No. 10/763,870

: DECISION ON PETITION

Filed: January 23, 2004

:

Attorney Docket No. 08859-0010

This is a decision on the petition under 37 CFR 1.137(b), filed November 20, 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 May 19, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on August 20, 2005. A Notice of Abandonment was mailed on November 29, 2005.

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 response filed November 20, 2006, is noted.

The request for an extension of time within the third month, filed November 20, 2006, is noted but cannot be granted as the request was made outside the maximum statutory period for reply and the application was already in an abandoned status. The amount of $510.00 will be refunded, in due course.

The power of attorney filed November 20, 2006, is noted and made of record.

The application is being forwarded to Technology Center 3700, GAU 3732 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
WAKATSUKI, Soichi et al.	:	
Application No. 10/763,897	:	DECISION ON PETITION
Filed: January 23, 2004	:	TO WITHDRAW
Attorney Docket No. **MITPA10.001AUS**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 04, 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 KNOBBE MARTENS OLSON & BEAR LLP has been revoked by the assignee of the patent application on April 05, 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: **K.A. PATENTS**
8806 CAMBRIDGE AVE # 1003
KANSASS CITY, MO 64138

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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APR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
HALLIDAY et al.	:	
Application No. 10/763,908	:	ON APPLICATION FOR
Filed: January 23, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 1410/67639	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed February 19, 2009. Applicant requests that the determination of patent term adjustment be corrected from 517 days to 888 days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on February 29, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). The fee is required and will not be refunded.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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Alexandria, VA 22313-1450
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Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, NY 11746

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OFFICE OF PETITIONS

In re Application of :
Valery Churpin :
Application No. 10/763,909 : DECISION ON PETITION
Filed: January 26, 2004 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a timely and proper reply to the final Office action mailed May 4, 2006, which set a three (3) month shortened statutory period for reply. A response was filed on September 17, 2006. Although the response was untimely, the examiner determined that the response did not place the application in condition for allowance. No further responses were filed during the allowable period and the application became abandoned on August 5, 2006. A Notice of Abandonment was mailed June 12, 2007.

The Notice of Appeal, filed October 4, 2007 is noted. Accordingly, the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The appeal brief filed October 4, 2007, is also noted.

The application file is being forwarded to Technology Center 3700, GAU 3752 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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SUITE 1600
CHICAGO, IL 60603-3406

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OFFICE OF PETITIONS

In re Application of :
Halliday et al. :
Application No. 10/763,914 : ON PETITION
Filed: January 23, 2004 :
For: CARTRIDGE FOR THE :
PREPARATION OF BEVERAGES :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 13, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 35 U.S.C. § 365(c) for the benefit of priority to the prior-filed nonprovisional and PCT applications 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 and PCT applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional and PCT applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed nonprovisional and PCT applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney Derek L. Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1761 for appropriate action on the amendment filed September 13, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TEAM MANUFACTURING, INC.
ATTENTION ELLIS, PRESIDENT
2625 HOLMSTEAD PLACE
RANCH DOMINGUEZ CA 90250

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OFFICE OF PETITIONS

In re Patent No. 7,036,782	:	
Issue Date: May 02, 2006	:	
Application No. 10/763,926	:	DECISION ON PETITION
Filed: January 22, 2004	:	
Attorney Docket No. 21321-0011	:	

This is a decision on the petition under 37 CFR 1.378(c), filed May 28, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 02, 2010 for failure to pay the three (3) and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 06/09/2010

Applicant	: Rajiv Laroia	: DECISION ON REQUEST FOR
Patent Number	: 7630339	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/763,944	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1401** 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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Edward G. Greive
Renner, Kenner, Greive, Bobak, Taylor & Weber
First National Tower, Fourth Floor
Akron OH 44308-1456

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OFFICE OF PETITIONS

In re Application of	:	
Jonathan M. Katz et al	:	
Application No. 10/763,964	:	DECISION ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. VIT.P0030	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 30, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 29, 2007. Accordingly, the date of abandonment of this application is May 1, 2007. A Notice of Abandonment was mailed on May 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

The petition to revive has the box checked stating that this application is "other than small entity," and submits the large entity petition fee of $1,500. However, the fee submitted for the issue fee is $700, which is the fee for a small entity. As a proper notification of loss of entitlement to small entity status has not been submitted in accordance with 37 CFR 1.27(g)(2) and in view of the conflicting fees submitted herein, the $1,500 petition fee submitted is considered to have been overpaid. Accordingly, petitioner's deposit account has been refunded $750 (half of the $1,500 petition fee submitted). If, in fact, this application was no longer entitled to small entity status at the

time of payment of the issue and petition fees, petitioner should promptly file a petition under 37 CFR 1.28(c) to accept the fee deficiency in the issue and petition fees submitted on June 4, 2007.

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

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

OIPE JC141 AUG 13 2004 PATENT & TRADEMARK OFFICE

Pet. Dec. FTW

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Application Number	10/763,970
Filing Date	January 26, 2004
First Named Inventor	Joseph Michael Reeves
Art Unit	1744
Examiner Name	
Attorney Docket Number	1810.01

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

Approved
Jacqueline M. Stone, Director
Technology Center 1700
11/19/04

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

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

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

The reasons for this request are: I have been attempting to communicate with the Applicant since early May of 2004, but Applicant has not responded to any of those efforts, thereby making it impossible to act on his behalf.

CORRESPONDENCE ADDRESS

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

[ ] Customer Number: [ ]

OR

[✓] Firm *or* Individual Name	Michael Reeves				
Address	520 Water Street				
Address					
City	North Little Rock	State	AR	Zip	72117
Country	USA				
Telephone	[501] 519-3573			Fax	

Name	Dennis B. Haase		
Signature		Registration No.	22.037
Date	8-09-04	Telephone No.	[501] 609-0404

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

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

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

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2345 Grand Avenue
Suite 2800
Kansas City, MO 64108

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MAR 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael S. Edson	:	
Application No. 10/763,983	:	ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. 414506	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2800.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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BAKER & DANIELS LLP
111 E. WAYNE STREET
SUITE 800
FORT WAYNE, IN 46802

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AUG 1 8 2005
OFFICE OF PETITIONS

In re Application of :
Terry, Pasko, Wyatt, Herrick, Marriot, Alvey, and Weingard :
Application No. 10/763,990 : DECISION REFUSING STATUS
Filed: January 23, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. TEC1290-01 :
For: INTEGRATED HVACR CONTROL AND PROTECTION SYSTEM

This is a decision on the petition under 37 CFR 1.47(a) filed July 5, 2005.

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on January 23, 2004, and was not accompanied by a properly executed oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on January 14, 2005, requiring a proper oath or declaration and allowing an extendable period for reply of two months from its mailing date. The instant petition was filed on July 5, 2005, with a request for an extension of time within the fourth month.

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 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

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

The instant petition lacks item (2) as set forth above.

As to item (2), Section 409.03 of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602 § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning inventor as required by 37 CFR 1.64. An oath or declaration signed by all of the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

The declaration filed on October 1, 2004, is defective because it does not contain a blank signature block for inventor Weingard. Without this signature block, the available joint inventors cannot be said to have executed the declaration on their own behalf and on behalf of inventor Weingard. The declaration filed July 5, 2005, by which the joint inventors sign the declaration on behalf of the inventor Weingard is also defective because it indicates that the declaration is made under 37 CFR 1.47(b). Title 37, Section 1.47(b) of the Code of Federal Regulations only applies when there is no inventor available or willing to execute the declaration. As there are joint inventors available in this case, 37 CFR 1.47(b) is not applicable. A proper declaration, preferably one that is formatted according to MPEP § 409.03 cited above, must accompany any renewed petition filed

Deposit account 02-0385 will be charged an additional $70.00 for the instant petition fee, which is $200.00. See 37 CFR 1.47 and 37 CFR 1.17(g).

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

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

By FAX: (571) 272-8300
Attn: Office of Petitions

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BAKER & DANIELS LLP
111 E. WAYNE STREET
SUITE 800
FORT WAYNE, IN 46802

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OFFICE OF PETITIONS

In re Application of :
Terry, Pasko, Wyatt, Herrick, Marriot, Alvey, and Weingard :
Application No.: 10/763,990 : DECISION ACCORDING
Filed: January 23, 2004 : RULE 47(a) STATUS
Attorney Docket No: TEC1290-01 :
For: **INTEGRATED HVACR CONTROL AND PROTECTION SYSTEM**

This is in response to the renewed petition under 37 CFR 1.47(a), filed October 13, 2005.

The renewed petition is **GRANTED**.

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

The above-identified application was filed on January 23, 2004, and was not accompanied by a properly executed oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on January 14, 2005, requiring a proper oath or declaration and allowing an extendable period for reply of two months from its mailing date. A petition under 37 CFR 1.47(a) was filed on July 5, 2005, with a request for an extension of time within the fourth month. The petition was dismissed by a decision mailed August 18, 2005.

Petitioner has shown that inventor Weingard has refused to 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.

This application will be directed 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Rachel W. Weingard
2057 Charlton Avenue
Ann Arbor, Michigan 48103

In re Application of :
Terry, Pasko, Wyatt, Herrick, Marriot, Alvey, and Weingard :
Application No.: 10/763,990 : LETTER
Filed: January 23, 2004 :
Attorney Docket No: TEC1290-01 :
For: **INTEGRATED HVACR CONTROL AND PROTECTION SYSTEM**

Dear Inventor Weingard:

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 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.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

BAKER & DANIELS LLP
111 E. WAYNE STREET
SUITE 800
FORT WAYNE, IN 46802

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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THORPE NORTH & WESTERN, LLP.
8180 SOUTH 700 EAST, SUITE 200
P.O. BOX 1219
SANDY UT 84070

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OCT 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
David FIKSTAD et al.	:	
Application No. 10/764,016	:	DECISION DISMISSING PETITION
Filed: January 23, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 23625.CON	:	

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

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

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

The amendment submitted concurrently with the petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in

a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

It is further noted that a petition filed under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional applications as set forth in the concurrently filed amendment cannot be granted until a grantable petition under 37 CFR 1.78(a)(3) is filed in parent Application No. 10/700,838 establishing the requested chain of continuity.

In view of the above, the petition is **DISMISSED.**

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

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

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

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

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

Any questions concerning this matter may be directed to David Bucci at (571) 272-7099.

Brian Hearn
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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OCT 0 3 2005

Patent App. SN: 10/764,016
Attorney Docket No. 23625.CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	Fikstad et al.	**CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. § 1.8**
SERIAL NO.:	10/764,016	I hereby certify under 37 CFR § 1.8 that this correspondence is being facsimile transmitted to the USPTO or being deposited with the United States Postal Service with sufficient postage as first class postage in an envelope addressed to Commissioner of Patents Alexandria, VA 22313 on the date indicated below.
FILED:	January 23, 2004	
FOR:	PHARMACEUTICAL COMPOSITIONS WITH SYNCHRONIZED SOLUBILIZER RELEASE	Judy Anderson Judy Anderson
ART UNIT:	1614	
EXAMINER:	Royds, L.	10/3/2005 Date of Deposit
DOCKET NO.:	23625.CON	

PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR THE BENEFIT OF A PRIOR-FILED APPLICATION UNDER 37 C.F.R. § 1.78(a)(3)

8

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

Dear Sir:

This is a petition to correct a claim for the benefit of a prior-filed patent application pursuant to 37 C.F.R. 1.78(a)(3), and in accordance with the fees set forth in 37 C.F.R. 1.17(t).

10/18/2005 AKELLEY 00000002 200100 10764016
01 FC:1454 1370.00 DA

PAGE 2/4 * RCVD AT 10/3/2005 5:12:14 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/24 * DNIS:2738300 * CSID:566 6673 * DURATION (mm-ss):01-10

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THORPE NORTH & WESTERN, LLP.
8180 SOUTH 700 EAST, SUITE 200
SANDY UT 84070

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NOV 16 2005

OFFICE OF PETITIONS

In re Application of	:	
David FIKSTAD et al.	:	
Application No. 10/764,016	:	DECISION DISMISSING PETITION
Filed: January 23, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 23625.CON	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 7, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional applications set forth in the concurrently filed amendment.

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

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

The amendment submitted concurrently with the petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment does not include an instruction, which unambiguously identifies the location, to delete one or more paragraphs of the specification, replace a paragraph with one or more replacement paragraphs, or add one or more paragraphs and, as such, does not comply with 37 CFR 1.121.

Application No. 10/764,016

In view of the above, the petition is **DISMISSED.**

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

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

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

Any questions concerning this matter may be directed to David Bucci at (571) 272-7099.

Brian Hearn
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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THORPE NORTH & WESTERN, LLP.
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SANDY UT 84070

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of	:
Donald FIKSTAD et al.	:
Application No. 10/764,016	: DECISION ON PETITION
Filed: January 23, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 23625.CON	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 1, 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.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed 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 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 Technology Center Art Unit 1614 for appropriate action on the amendment filed December 1, 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

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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Darrell F. Marquette
Karsten Mfg. Corp.
2201 W. Desert Cove
Phoenix, AZ 85029

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OFFICE OF PETITIONS

In re Application of	:	
Solheim et al.	:	
Application No. 10/764,024	:	
Filed: January 23, 2004	:	ON PETITION
Attorney Docket Number:	:	
KMC-594	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2005, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, ("Notice"), mailed May 10, 2005. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on August 11, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has submitted the issue fee.

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

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

Derek L. Woods
Attorney
Office of Petitions

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

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MAR 25 2010

OFFICE OF PETITIONS

In re Application of :
Gaue et al. :
Application No. 10/764,056 :
Filed: January 23, 2004 :
Attorney Dkt. No. MAIWAM6.001C1: :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a final Office action mailed March 13, 2006. The Office Action set a three (3) month shortened statutory period for reply. An untimely three month extension of time was requested under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on June 14, 2006. A Notice of Abandonment was mailed on October 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1620; 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 $1110.00 extension of time fee submitted with the petition on September 11, 2009 was subsequent to the maximum extendable period for reply. The fee will be refunded.

It should be very carefully noted that neither the primary examiner nor the Director of the USPTO has authority to extend the shortened statutory period unless a petition for the extension is filed. While the shortened period may be extended within the limits of the statutory 6 months period, no extension can operate to extend the time beyond the 6 months. Further, Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/520,186.

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Stephen E. Feldman, P.C.
12 East 41st Street
New York, NY 10017

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JUL 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Toros Kejejian	:	DECISION
Application No. 10/764,071	:	ON PETITION
Filed : January 23, 2004	:	
Title of Invention: DIAMOND CUT	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 2, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed August 10, 2005. The Office action set a shortened statutory period for reply of three (3) months, and also provided for extensions of time under 37 CFR 1.136(a). Applicant filed a response on November 10, 2005; however, the response failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed November 29, 2005. Applicant filed a Notice of Appeal February 24, 2006. Applicant files the instant petition and RCE, effectively withdrawing the appeal, and a submission was previously filed on November 10, 2005.

Accordingly, the petition is granted.

This application is being returned to Technology Center 3677 for processing of the RCE and Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

SPE: C. Marmor

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/8/07

TO SPE OF : ART UNIT 3681

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/764,086 Patent No.: 7059210

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: CORRECTION TO CLAIM 34 SHOULD REFER TO COLUMN 24, LINE 55 (NOT LINE 50)

C Marmor — SPE

3681 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER – SUITE 101
ELLICOTT CITY, MD 21043

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of
Ann-Shyn Chiang
Application No. 10/764,091
Filed: January 23, 2004
Attorney Docket No. MR3457-43

DECISION ON PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.55(c), filed May 2, 2005, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign Taiwan Application No. 092102129, filed January 30, 2003.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The 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.

This application was filed on January 23, 2004, which is after November 29, 2000 and within 12 months of January 30, 2003 (the filing date of the foreign application to which benefit is now being claimed). On May 2, 2005, an Application Data Sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1370 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed 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 119(a)-(d) and 37 CFR 1.78(a)(1) and (a)(2) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(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 this application is entitled to the benefit of the earlier filing date.

A Corrected Filing Receipt, which reflects the above-noted foreign application, accompanies this decision on petition.

This application is being directed to Technology Center AU 2625 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to David Bucci at (571) 272-7099.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paul R. Audet, Esq.
United States Surgical,
a Division of Tyco Healthcare Group LP
150 Glover Avenue
Norwalk CT 06856

COPY MAILED

JUN 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Demmy, et al.	:	
Application No. 10/764,103	:	DECISION ON PETITION
Filed: January 23, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2944 (203-4027)	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 29, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

The instant application is abandoned as of January 27, 2007 for failure to timely submit a proper reply to the Office action mailed October 26, 2006. Notice of Abandonment was mailed April 27, 2007.

Application No. 10/764,103

In view thereof, the instant petition is subject to dismissal.

Any inquiries concerning this decision may be directed to Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Nancy Johnson
Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Chief Patent Counsel
United States Surgical,
a Division of Tyco Healthcare Group LP
195 McDermott Road
New Haven CT 06473

MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of
Demmy, et al.
Application No. 10/764,103
Filed: January 23, 2004
Attorney Docket No. 2944 (203-4027)

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

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 10, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3731 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/764,103	01/23/2004	3731	900	2944 (203-4027)	2	1

CONFIRMATION NO. 7897

CORRECTED FILING RECEIPT

Chief Patent Counsel
United States Surgical,
a Division of Tyco Healthcare Group LP
195 McDermott Road
New Haven, CT 06473

OC000000035072581

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)

Todd L. Demmy, East Amherst, NY;
Paul A. Scirica, Huntington, CT;
Lee Ann Olson, Wallingford, CT;

Power of Attorney:

Paul Audet--26439
David Carter--30949
Peter DeLuca--32978
Arnold Turk--33094
Don Webber--34275
Raymond Farrell--34816
Joseph Schmidt--36920
James Loeffler--37873
Christopher Trainor--39517
Lisa Moyles--40737

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/466,378 04/29/2003

Foreign Applications

If Required, Foreign Filing License Granted: 04/28/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/764,103**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Surgical stapling device with dissecting tip

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

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

PETITION DECISION

04/20/04

David A. Hall
Heller, Ehrman, White & McAuliffe LLP
4350 La Jolla Village Drive, Suite 600
San Diego, CA 92122-1246

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/764122 received on 03/25/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King
Signature of Reviewer, Office of Pre-Grant Publication

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ALAN C. GORDON
HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE #700
7TH FLOOR
SAN DIEGO, CA 92122

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
O'Farrell et al.	:	DECISION ON PETITION
Application No. 10/764,122	:	TO WITHDRAW
Filed: January 23, 2004	:	FROM RECORD
Attorney Docket No. 026276-000110US	:	

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

The request is **DISMISSED** as moot.

A review of the file record indicates that on May 2, 2006 the power of attorney to Heller Ehrman LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco CA 94111-3834

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James M. Heslin
Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eight Floor
San Francisco, CA 94111-3834

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AUG 1 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Mark Zdeblick et al.	:	
Application No. 10/764,125	:	DECISION ON PETITION
Filed: January 23, 2004	:	TO WITHDRAW
Attorney Docket No. 021308-000710US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 7, 2006.

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

A review of the file record indicates that the power of attorney to James M. Heslin and the attorney(s) and/or agent(s) associated with Customer Number 20350 has been revoked by the assignee of the patent application on June 6, 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 Terri Williams at 571-272- 2991.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Bozicevic, Field & Francis LLP
(Proteus Biomedical, Inc.)
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/764,125	01/23/2004	Mark Zdeblick	021308-000710US

CONFIRMATION NO. 6091

OC000000019929736

OC000000019929736

61487
BOZICEVIC, FIELD & FRANCIS LLP
(PROTEUS BIOMEDICAL, INC)
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 08/07/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/06/2006.

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.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/764,125	01/23/2004	Mark Zdeblick	021308-000710US

CONFIRMATION NO. 6091

OC000000019929719

OC000000019929719

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 08/07/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/06/2006.

- 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).

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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Townsend, Townsend & Crew, LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Mark ZDEBLICK et al.	:	
Application No. 10/764,127	:	DECISION ON PETITION
Filed: January 23, 2004	:	TO WITHDRAW
Attorney Docket No. 021308-000810US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 7, 2006.

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

A review of the file record indicates that the power of attorney to James M. Heslin has been revoked by the assignee of the patent application on June 6, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Bozicevic, Field & Francis LLP
(Proteus BioMedical, Inc)
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

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Proteus Biomedical, Inc.
Bozicevic, Field & Francis LLP
1900 University Avenue, Suite 200
East Palo Alto CA 94303

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JAN 04 2010

In re Patent No. 7,204,798	:	
Issue Date: April 17, 2007	:	
Application No. 10/764,127	:	ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. PRTS-041 (PRO-3)	:	

This is a decision on the petition under 37 CFR 1.182, filed November 10, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

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

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

This patent file is being referred to the Files Repository.

Any questions concerning this matter may be directed to the undersigned at (571) 272-4584. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703)756-1556.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, Randolph Square Building, 9th Floor, 09/D30-B
FAX No. (571) 270-9753

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JUL 18 2008

OFFICE OF PETITIONS

In re Application of :
MOHAN R. DUGGI : LETTER REGARDING PATENT
Application No. 10/764,129 : TERM ADJUSTMENT
Filed: January 23, 2004 :
Attorney Docket No. 2003.08.008.WTO:

This letter is in response to the "GOOD FAITH AND CANDOR LETTER REGARDING PATENT TERM ADJUSTMENT," filed March 31, 2008. Pursuant to applicant's duty of good faith and candor to the Office, applicant requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy. Applicant states that the correct patent term adjustment is 664 days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **664 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 31, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 668 days. On March 31, 2008, applicant submitted the instant comment.

Applicant asserts that the patent term adjustment should be reduced by four days for the period of time in excess of three months that was taken to reply to a final Office action. See 37 CFR 1.704(b).

Applicant's assertion is well taken. A review of the application history reveals that applicant filed a notice of appeal on October 23, 2007, three months and four days after the date of the mailing of the final Office action on July 19, 2007. As applicant failed to engage in reasonable efforts to conclude processing or examination within the meaning of 37 CFR 1.704(b), a period of reduction of four days is warranted.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **664 days** (673 days of Office delay - 9 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicant's favor, the Office will not assess the $200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks applicant for applicant's good faith and candor in bringing this to the attention of the Office.

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

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

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of updated PAIR screen

Day : Thursday
Date: 7/17/2008

PALM INTRANET

Time: 10:02:52

PTA Calculations for Application: 10/764129			
Application Filing Date:	01/23/2004	PTO Delay (PTO):	673
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	5
Post-Issue Petitions:	0	Total PTA (days):	664
PTO Delay Adjustment:	-4		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
50	07/17/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
43	12/31/2007	MAIL NOTICE OF ALLOWANCE			
42	12/28/2007	ISSUE REVISION COMPLETED			
41	12/27/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	12/26/2007	NOTICE OF ALLOWABILITY			
39	12/21/2007	DATE FORWARDED TO EXAMINER			
38	12/21/2007	MAIL APPEALS CONF. REOPEN PROSEC.			
37	12/20/2007	PRE-APPEALS CONFERENCE DECISION - REOPEN PROSECUTION			
36	10/23/2007	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
35	10/23/2007	NOTICE OF APPEAL FILED			
34	10/17/2007	MAIL ADVISORY ACTION (PTOL - 303)			
33	10/15/2007	ADVISORY ACTION (PTOL-303)			
32	09/22/2007	DATE FORWARDED TO EXAMINER			
31	09/18/2007	AMENDMENT AFTER FINAL REJECTION			
30	07/19/2007	MAIL FINAL REJECTION (PTOL - 326)			
29	07/17/2007	FINAL REJECTION			
28	05/15/2007	DATE FORWARDED TO EXAMINER			
27	04/30/2007	RESPONSE AFTER NON-FINAL ACTION		5	26
26	01/25/2007	MAIL NON-FINAL REJECTION	673		-1
25	01/08/2007	NON-FINAL REJECTION			
24	07/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	09/11/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

22	12/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	10/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
19.7	09/11/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	09/11/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	07/17/2006	REFERENCE CAPTURE ON IDS			
17.7	07/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	07/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	06/15/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	01/27/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	12/27/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	08/16/2004	TRANSFER INQUIRY TO GAU			
11	07/20/2004	APPLICATION RETURN FROM OIPE			
10	07/20/2004	APPLICATION RETURN TO OIPE			
9	07/20/2004	APPLICATION DISPATCHED FROM OIPE			
8	07/20/2004	APPLICATION IS NOW COMPLETE			
7	06/29/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	06/29/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	04/29/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	03/09/2004	CLEARED BY OIPE CSR			
3	03/09/2004	CASE CLASSIFIED BY OIPE			
2	02/05/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/23/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

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SEP 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Duron	:	
Application No. 10/764,139	:	DECISION ON PETITION
Filed: January 22, 2004	:	TO WITHDRAW
Attorney Docket No. 4072	:	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 7, 2006 and September 11, 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 R. Joseph Trojan on behalf of all attorneys of record who are associated with customer No. 23388.

All attorneys/agents associated with the Customer Number 23388 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed August 3, 2005 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: PAUL P. DURON
4633 CAMDEN DRIVE
CORONA DEL MAR, CA 92625

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/764,139	01/22/2004	Paul P. Duron	4072

CONFIRMATION NO. 6079

OC000000020460965

OC000000020460965

23388
TROJAN LAW OFFICES
9250 WILSHIRE BLVD
SUITE 325
BEVERLY HILLS, CA 90212

Date Mailed: 09/15/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/07/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Hanson S. Gifford et al	:	
Application No. 10/764,148	:	DECISION GRANTING PETITION
Filed: January 23, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. FDY-002 CIP	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a declaration and Application Data Sheet(ADS); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of April 29, 2004, is accepted as having been unintentionally delayed.

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

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

Karen Creasy

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

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KENYON & KENYON
One Broadway
New York NY 10004

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Vorbach et al.	:	ON PETITION
Application No. 10/764,159	:	
Filed: January 23, 2004	:	
Attorney Docket No. 02885/77	:	

This is a decision on the petition under 37 CFR 1.10(c), filed May 3, 2005, requesting that the above-identified application be accorded a filing date of January 23, 2004, rather than the presently accorded filing date of January 24, 2004.

Petitioner alleges that the application was deposited in Express Mail Post Office to Addressee on January 23, 2004. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV332524594US, indicating a date-in of January 23, 2004. Additionally, the label contains a United States Postal Service stamp of January 23, 2004. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

This matter will be referred to the Office of Initial Patent Examination to correct the filing date to January 23, 2004, and to mail a corrected filing receipt.

Telephone inquiries 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/764,162	01/22/2004	2812	770	P/4076-66	3	16	2

CONFIRMATION NO. 8162

CORRECTED FILING RECEIPT

OC000000013662793

000002352
OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Date Mailed: 08/30/2004

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

Applicant(s)

Rong Duan, Singapore, SINGAPORE;
Ka Shing Kenny Kwan, Singapore, SINGAPORE;

Assignment For Published Patent Application

ASM Technology Singapore Pte Ltd;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/29/2004

Projected Publication Date: 07/28/2005

Non-Publication Request: No

Early Publication Request: No

Title

System for reducing oxidation of electronic 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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Woodard, Emhardt, Moriarty, McNett & Henry LLP
Bank One Center/Tower
Suite 3700
111 Monument Circle
Indianapolis, IN 46204-5137

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OFFICE OF PETITIONS

In re Patent No. 6,841,219	:	
Issue Date: January 11, 2005	:	
Application No. 10/764,166	:	NOTICE
Filed: January 23, 2004	:	
Attorney Docket No. 7272-47	:	

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

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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BRINKLE Y, MORGAN, SOLOMON, TATUM, STANLEY, LUNNY, & CROSBY, LLP
200 E. LAS OLAS BLVD, SUITE 1900
FORT LAUDERDALE FL 33301

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Roberto Edmundo Pazmino Sanchez
Application No. 10/764,194
Filed: January 23, 2004
Attorney Docket No. 013313-05648

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed May 30, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center AU 3635 for appropriate action on the concurrently filed election.

Liana Walsh
Petitions Examiner
Office of Petitions

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

Mail Date: 04/26/2010

Applicant	: Thomas E. Gorsuch	: DECISION ON REQUEST FOR
Patent Number	: 7583971	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/764,196	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **352** 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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JOHN F. LETCHFORD
ARCHER & GREINER, P.C.
ONE CENENNIAL SQUARE
HADDONFIELD NJ 08033

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OFFICE OF PETITIONS

In re Application of	:	
Rogers et al.	:	
Application No. 10/764,237	:	ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. ROG030.10005	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 1, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510.00 extension of time fee submitted with the petition on November 1, 2006, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 3700 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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1/8/08

Patent No. :6935816
Ser. No. : 10764240
Inventor(s) :Lee et al.
Issued : 8/30/05
Title : HIGH STIFFNESS COMPOSITION TOOL BAR
Docket No. :

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

GRAYBEAL JACKSON HALEY
155 – 108TH Avenue NE, Suite 350
Bellevue, WA98004- 5973

HR

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/764,246			

EXAMINER

ART UNIT	PAPER
	20070719

DATE MAILED:
7-20-07

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

Commissioner for Patents

Dear Sir or Madam,

This paper is to acknowledge that the Petition filed April 6, 2004 has been considered and is GRANTED.

Please feel free to contact me with any questions or comments.

Sincerely,

J.A. Lorenzo, SPE
AU 1765
571.272.1233

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

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OFFICE OF PETITIONS

In re Application of :
Andreas Knueppel et al :
Application No. 10/764,256 : ON PETITION
Filed: January 23, 2004 :
Attorney Docket No. 2002P17513US01;60426-620 :

This is a decision on the petition filed August 27, 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 March 14, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 15, 2006.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210. This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John M. Siragusa
400 West Maple Road, Suite 350
Birmingham, MI 48009

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JACKSON & CO., LLP
6114 LA SALLE AVENUE, APT 507
OAKLAND, CA 94611-2802

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OFFICE OF PETITIONS

In re Application of

STEINBERG, et al.
Application No. 10/764,274
Filed: January 22, 2004
Attorney Docket No. **FN103-D**

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 17, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **JACKSON & CO., LLP** has been revoked by the assignee of the patent application on November 19, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **FOTONATION**
PATENT LEGAL DEPT.
3099 ORCHARD DRIVE
SAN JOSE, CA 95134

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/29/07

Paper No.: —

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/764280 Patent No: 7207440 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: Approved as presented for

SPE

3728
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO: **7,207,440**

DATED: **April 24, 2007**

INVENTOR(S): **Gary Malcolm Briscoe**

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

In claim 1:

A blister pack for receiving and containing an article to be packaged comprising a front part having a recessed portion, a back part having a relieved portion adapted for insertion into the recessed portion of the front part for closure of the pack, and cooperating locating means on the front and back parts respectively to maintain the pack in a closed condition; wherein the locating means comprises of an abutment on the inner wall surface of the recessed portion of the front part, and a cooperating abutment on the outer wall surface of the relieved portion of the back part, the inner and outer wall abutments being located thereon such that they become inter-engaged to close the pack, wherein at least a substantial majority of the back part is wholly contained in the recessed portion of the front part; the abutment on the inner wall surface of the recessed portion of the front part extending inwards from said wall surface to at least as great an extent as that by which the abutment of the relieved portion of the back part extends outward from the outer wall surface thereof, the abutment of the back part comprising a continuous narrow flange protruding outwardly from the relieved portion and forming an outmost edge of the back part within the recessed portion of the front part when the back is closed such that none of the back part extends outwardly of the abutment of the recessed portion of the front part of the pack when the pack is closed.

MAILING ADDRESS OF SENDER: **PATENT NO. 7,207,440**

Arlene J. Powers
Gauthier & Connors LLP
225 Franklin Street, Suite 2300
Boston, MA 02110

MAY 15 2007

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

WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

COPY MAILED

OCT 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Nurit Livnah et al	:	
Application No. 10/764,288	:	DECISION GRANTING PETITION
Filed: January 23, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 87534-4300	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 24, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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JAN 24 2008

OFFICE OF PETITIONS

COOPER & DUNHAM, LLP
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:	
Nurit Livnah et al	:	
Application No. 10/764,288	:	DECISION GRANTING PETITION
Filed: January 23, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 78414-A/JPW/GJG/ML	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 23, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 19, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPT.
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of
Thomas Volkel
Application No. 10/764,295
Filed: January 23, 2004
Attorney Docket No. 2001P07053WOUS

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 23, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 24, 2006. The Notice of Abandonment letter was mailed September 26, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1500; 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 2857 to await the entering of the appeal brief filed January 8, 2007.

Liana Walsh
Petitions Examiner
Office of Petitions

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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OFFICE OF PETITIONS

In re Patent of Strub et al.	:	
Patent No. 7,519,271	:	DECISION ON APPLICATION
Issue Date: April 14, 2009	:	FOR RECONSIDERATION OF
Application No. 10/764,309	:	PATENT TERM ADJUSTMENT
Filing Date: January 22, 2004	:	
Attorney Docket No. 345288015US	:	

This is in response to the "Application for Patent Term Adjustment Reconsideration Under 37 C.F.R. § 1.705(b)" filed March 4, 2009, and the "Application for Patent Term Adjustment Reconsideration Under 37 C.F.R. § 1.705(d)" filed May 7, 2009. Patentees request that the determination of patent term adjustment indicated on the issue notification (and on the patent) be corrected from 943 days to 1,437 days.

The request for reconsideration of the patent term adjustment under 37 C.F.R. 1.705(b) is **dismissed as moot**.

The request for reconsideration of the patent term adjustment under 37 C.F.R. 1.705(d) is **dismissed**.

The Request Under 37 CFR 1.705(b)

The request under 37 CFR 1.705(b is based solely on an assertion patentees are entitled to additional patent term adjustment based on the failure of the Office to issue the patent within three years of the filing date of the application. Knowledge of the actual date a patent issues is required to properly calculate a term adjustment pursuant to 37 CFR 1.703(b). As a result, the term adjustment shown on a Determination of Patent Term Adjustment mailed with a Notice of Allowance is the term adjustment *prior to* any adjustment pursuant to 37 CFR 1.703(b). The term adjustment listed on the patent will include any adjustments pursuant to 37 CFR 1.703(b). Therefore, the proper vehicle to assert patentees are entitled to additional patent term adjustment based on the failure of the Office to issue the patent within three years of the filing date of the application is a request under 37 CFR 1.705(d) instead of 37 CFR 1.705(b). Patentees have filed a request under 37 CFR 1.705(d). The Office will consider patentee's arguments as part of the Office's consideration of the request under 37 CFR 1.705(d) and the request under 37 CFR 1.705(b) is dismissed as moot.

The Request Under 37 CFR 1.705(d)

On January 6, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated the patent term adjustment to date is 943 days. On April 14, 2009, the application matured into United States Patent No. 7,519,271 with a revised patent term adjustment of 943 days. This request for reconsideration 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. Patentees contend it is entitled to additional patent term adjustment based on the failure of the Office to issue the patent within three years of the filing date of the application. Patentees assert the application was filed January 22, 2004, and the application was issued as a patent 3 years and 813 days later on April 14, 2009.

Patentees contend the total patent term adjustment should be 1,437 days, which is the sum of the 813 days of delay in the issuance of the patent ("Three Year Delay")[1] and 990 days of delay due to other types of Office delay ("Examination Delay")[2] reduced by 319 days of overlap and 47 days of applicant delay.

The Office agrees the Examination Delay is 990 days, and the applicant delay is 47 days. The Office does not agree that the Three Year Delay is 813 days. The Office does not agree the period of overlap is 319 days.

In this case, a Request for Continued Examination ("RCE") was filed December 23, 2008. Pursuant to 35 U.S.C. § 154(b)(1)(B), the period of adjustment under 35 U.S.C. § 154(b)(1) does not include the number of days from the date a request for continued examination is filed until the patent is issued.[3] In other words, the filing of a RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment.[4]

---

[1] The period of adjustment under 37 C.F.R. § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. § 1.111(a) or the national stage commenced under 35 U.S.C. § 371(b) or (f) in an international application and ending on the date the patent was issued. The period of adjustment does not include any time period falling under 35 U.S.C. § 154(b)(1)(B)(i)-(iii).

[2] "Examination Delay," as used in this decision, references delay under 35 U.S.C. §§ 154(b)(1)(A) and (B).

[3] *Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56,366, 53,370-53,371 (September 18, 2000), 1239 Off. Gaz. Pat. Office (October 3, 2000):

> 35 U.S.C. 154(b)(1)(B) provides that an applicant may receive a term adjustment if the application is not issued within three years of the filing date of the application, excluding (among other things) any time consumed by continued examination requested under 35 U.S.C. 132(b). Once a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and § 1.114.

[4] [I]f a request for continued examination is filed in an application, the applicant may still accrue patent term adjustment under 35 U.S.C. 154(b)(1)(A) or (C). *Changes to Implement Patent Term Adjustment Under Twenty-*

The period of delay accumulated under 37 CFR 1.703(b)(1) is the period of time from the filing date to the date the RCE was filed.[5] Therefore, the period of adjustment under 35 U.S.C. § 154(b)(1) is 701 days counting the number of days beginning on the filing date, January 22, 2004, and ending on the date the RCE was filed, December 23, 2008.

The total amount of adjustment one can receive as a result of delay under 35 U.S.C. § 154(b)(1) is limited by 35 U.S.C. § 154(b)(2)(A) which states,

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

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (701 days - see above) and the period of Examination Delay (990 days) to the extent that these periods of delay are not overlapping. However, patentees assert the period of overlap is 319 days. The Office does not agree with patentees' conclusion that the amount of overlap between the Three Year Delay and Examination Delay is 319 days. The Office contends the proper amount of the overlap is 701 days.

The Office's position regarding the proper interpretation of 35 U.S.C. § 154(b)(2)(A) is as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period 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 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).[6]

The relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, to the date the RCE was filed.[7] In this case, all the Examination Delay occurred prior to the filing of the RCE. Therefore, the entire Examination Delay of 990 days took place within the relevant time period. In other words, <u>all of the Three Year Delay of 701 days overlaps with the Examination delay of 990 days</u>. Office delay resulted in the patent issuing 990 days later than it would have issued but for Office delay, not 990 days + 701 days

---

Year Patent Term; Final Rule, 65 Fed. Reg. 56,366, 53,370-53,371 (September 18, 2000), 1239 Off. Gaz. Pat. Office (October 3, 2000).

[5] The instant case does not contain any time periods falling under 35 U.S.C. § 154(b)(1)(B)(ii)-(iii).

[6] *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) (*citing Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704, 21706 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100, 101 (May 18, 2004)).

[7] The instant case does not contain any time periods falling under 35 U.S.C. § 154(b)(1)(B)(ii)-(iii).

later. Accordingly, 990 days of patent term adjustment (not 990 and 701 days) was properly entered since the period of delay of 701 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 990 days of Examination Delay.

The total patent term adjustment and the number of days issuance of the patent was delayed due to Office delay is 943 days, which is the sum of the 701 days of delay in the issuance of the patent ("Three Year Delay")[8] and 990 days of delay due to other types of Office delay by the Office ("Examination Delay") reduced by 701 days of overlap and 47 days of applicant delay.

For the reasons previously discussed, the Office acted properly when it did not increase the patent term adjustment as a result of the Office taking in excess of 3 years to issue the patent. Therefore, the patent term adjustment will remain 943 days and the patent term adjustment on the patent will not be changed.

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

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

[8] The period of adjustment under 37 C.F.R. § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. § 1.111(a) or the national stage commenced under 35 U.S.C. § 371(b) or (f) in an international application and ending on the date the patent was issued. The period of adjustment is reduced by any time period falling under 35 U.S.C. § 154(b)(1)(B)(i)-(iii).

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Lawrence G. Almeda
BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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JUN 27 2008

OFFICE OF PETITIONS

In re Application of :
Michael J. Borrelli :
Application No. 10/764,316 :
Filed: January 23, 2004 :
Attorney Docket No. 10546-109 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 18, 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.

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

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of June 13, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2).

As to item 1, the amendment filed on January 18, 2008 does not *prima facie* place the application in condition for allowance, therefore 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 attached courtesy copy of an advisory action.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By 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 Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

Attachment: Courtesy copy of advisory action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/764,316	Applicant(s) BORRELLI, MICHAEL J.	
	Examiner Kimberly Chong	Art Unit 1635	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 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: 4, 7, 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: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Sean R McGarry/
Primary Examiner, Art Unit 1635

Continuation of 11. does NOT place the application in condition for allowance because: the indicated allowability of claims 4, 7 and 10 is withdrawn and prosecution will be reopened to apply new art. The rejection of record of claims 1-3, 5-6, 8-9, 11-13, and 32 under 35 U.S.C. 103(a) as being unpatentable over Li et al., Frisan et al., Sert et al. and Xu et al. is moot as these claims have been canceled..

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Brinks Hofer Gilson & Lione/Ann Arbor
524 South Main Street
Suite 200
Ann Arbor, MI 48104

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MAR 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael J. Borrelli	:	
Application No. 10/764,316	:	ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. 10546-109	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of June 13, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). A Notice of Abandonment was mailed on January 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination), with the required fee of $405, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

The petition mailed June 27, 2008 dismissed the petition filed on January 18, 2008 for failure to submit a proper reply. The renewed petition filed August 25, 2008 included a proper reply.

An additional petition fee of $770.00 was paid with the renewed petition. No fee was necessary and will be refunded to petitioner's deposit account.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being

mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1635 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Brinks, Hofer, Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eight Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Alexander Gaiger et al.	:	
Application No. 10/764,324	:	DECISION ON PETITION
Filed: January 23, 2004	:	TO WITHDRAW
Attorney Docket No. 014058-013534US	:	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, 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, **discontinuation of attorney/client relationship**, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed May 2, 2006 that requires a reply from applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Jeff Hundley, Ph.D
Seed IP Law Group, PLLC
701 Fifth Avenue
Suite 6300
Seattle, WA 98104

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

Zagorin O'Brien Graham LLP
7600B N. Capital of Texas Hwy.
Suite 350
Austin, TX 78731

MAILED
AUG 2 6 2005
Technology Center 2100

In re Application of:
Wayne J. TOLLETT
Application No. 10/764,326
Filed: January 23, 2004
For: INTRA-ENCAPSULATION INTELLIGENT SEARCHING OF AN OBJECT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed January 21, 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 is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) 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 U.S. Patent and Trademark Office (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 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

cc: Wayne J. Tollett
Spicewood Software, LLC
919 Johnson Way
Spicewood, TX 78669

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

Tessera/FotoNation
Patent Legal Dept.
3025 Orchard Parkway
San Jose, CA 95134

Mail Date: 04/21/2010

Applicant	: Eran Steinberg	: DECISION ON REQUEST FOR
Patent Number	: 7587068	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/764,335	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **940** 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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JACKSON & CO., LLP
6114 LA SALLE AVENUE
#507
OAKLAND, CA 94611-2802

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DEC 0 3 2007

OFFICE OF PETITIONS

In re Application of
STEINBERG, Eran et al.
Application No. 10/764,336
Filed: January 22, 2004
Attorney Docket No. **FN103-B**

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 17, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Jackson & Co., LLP has been revoked by the assignee of the patent application on November 18, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **FotoNation, Inc.**
IP Dept.
800 Airport Blvd.
Suite 522
Burlingame, CA 94010

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAIL

MAR 19 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

JONATHAN A. SMALL
JAS IP CONSULTING
343 SECOND STREET
SUITE F
LOS ALTOS CA 94022

In re Application of
ROBOTHAM, JOHN S., et al.
Appl. No.: 10/764,341
Filed: January 23, 2004
For: **VISUAL CONTENT BROWSING USING RASTERIZED REPRESENTATIONS**

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition filed October 26, 2006, to expunge information from the above identified application pursuant to 37 CFR 1.59(b).

The petition is **Granted**.

Petitioner requests that the Revocation and Power of Attorney filed February 21, 2006, be expunged from the record. Petitioner states 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.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from the electronic file.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

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JUN 04 2009

OFFICE OF PETITIONS

In re Application of :
Srdan MUTABDZIJA, et al. :
Application No. 10/764,343 : DECISION GRANTING PETITION
Filed: January 23, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **A2000-700019** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 28, 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 May 4, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2836 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OCT 26 2007

OFFICE OF PETITIONS

LOWRIE, LANDO & ANASTASI
RIVERFRONT OFFICE
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE MA 02142

In re Application of	:	
Francis J. Masciarelli et al	:	
Application No. 10/764,344	:	DECISION GRANTING PETITION
Filed: January 23, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. A2000-700119	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 26, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 20, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2836 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 : 09/03/09

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 10764344 Patent No.: 7446433

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Corrections approved since it does not add new matter or change the scope of the claims.

Jared Fourman 2836 9/4/2009

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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KING & SPALDING LLP
191 PEACHTREE STREET, N.E.
45TH FLOOR
ATLANTA GA 30303-1763

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NOV 0 2 2005

OFFICE OF PETITIONS

Applicant: Artmeier
Appl. No.: 10/764,346
Filing Date: January 23, 2004
Title: UROLOGICAL WORKING PLACE
Attorney Docket No.: 08340.105017
Pub. No.: US 2005/0053198 A1
Pub. Date: March 10, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on August 24, 2005, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the contents of the English translation of the German priority document submitted for the application and not the contents of the application as filed.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable."

The request for corrected publication received on October 6, 2005, was not timely filed under 37 CFR 1.221 (b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DEC 28 2006

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Norman Van Meeteren	:
Serial No.: 10/764,367	: PETITION DECISION
Filed: January 23, 2004	:
Attorney Docket No.: 1379-011	:

This is in response to the petition under 37 CFR § 1.59(b), filed December 14, 2006, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on November 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(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information will be returned to applicant.

Therefore, applicant's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

George Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 17 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Norman Van Meeteren	:
Serial No.: 10/764,370	: PETITION DECISION
Filed: January 23, 2004	:
Attorney Docket No.: 1379-012	:

This is in response to the petition under 37 CFR § 1.59(b), filed December 14, 2006, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on November 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(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information will be returned to applicant.

Therefore, applicant's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

George C. Elliott

George Elliott
Director, Technology Center 1600

OIPE IAP15
NOV 0 9 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE		
	Application Number	10/764,370
	Filing Date	January 23, 2004
	First Named Inventor	NORMAN VAN MEETEREN
	Group Art Unit	1638
	Examiner Name	A. MEHTA
	Attorney Docket Number	1379-012
Title of the Invention: **SOYBEAN CULTIVAR SG5322NRR**		

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail (post office to addressee) in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on this 9th day of November, 2006. The number of the Express Mail mailing label is EV690530439US.

Elizabeth L. Bennett-Jarvis
Reg. No. 53,982

REQUEST FOR INFORMATION UNDER 37 C.F.R. §1.105

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In response to the Request for Information mailed August 10, 2006, please see responses below.

The Examiner states the following as the reason for the Request for Information under 37 C.F.R. §1.105:

> Applicant is claiming a seed comprising at least 50% of the genome of soybean line SG5322NRR, and soybean plants produced in methods that comprise performing crosses with soybean plant SG5322NRR. However, the instant specification is silent about what starting materials and methods were used to produce soybean line SG5322NRR.

Applicant has submitted a response to the Request for Information so as to expedite prosecution of the application.

3 (i). Original parental soybean lines used to produce soybean cultivar SG5322NRR:
FFR665 and FFR RT517
Other designations/denominations for parental soybean lines: None
Regarding the lineage of the original parental lines back to any publicly available varieties, Applicant submits that the lineage of the original parents of the present invention does not contain any public lines that are similar in genotype to the present invention.

3 (ii). Method and steps used to produce soybean cultivar SG5322NRR:
Modified Single Seed Descent
1)The F_1 generation was selfed and advanced to F_2.
2) The F_2 generation was advanced to F_4 by using Modified Single Seed Descent.
3) F_4 and F_5 plants were selfed and selected in each generation. The instant invention was derived from F_5 experimental number line 48491.

4) The experimental line was then tested in replicated plots at many locations for 3 years before release.

---

3 (iii). Have parental soybean lines or progeny been disclosed or made publicly available?

FFR665 was publicly sold in 1995

FFR RT517 was publicly sold in 1997

3 (iv). Were any other soybean cultivars produced by the same method using the original parental soybean lines?

NO

REMARKS

In view of the above information, it is submitted that the Applicant has satisfied the Request for Information under 37 C.F.R. §1.105. All of this information is a Trade Secret and applicant has marked this Reply to Request for Information as "Trade Secret". Additionally, Applicant has submitted this Reply in compliance with MPEP §724. Reconsideration of this application and an early notice of allowance are respectfully requested.

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED					
NAME AND REG. NUMBER	Elizabeth L. Bennett-Jarvis, Reg. No. 53,982				
SIGNATURE			DATE	November 9, 2006	
Address	Jondle & Associates P.C. 858 Happy Canyon Road, Suite 230				
City	Castle Rock	*State*	CO	*Zip Code*	80108
Country	U.S.A.	*Telephone*	303-799-6444	*Fax*	303-799-6898

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE		
	Application Number	10/764,370
	Filing Date	January 23, 2004
	First Named Inventor	NORMAN VAN MEETEREN
	Group Art Unit	1638
	Examiner Name	A. Mehta
	Attorney Docket Number	1379-012
Title of the Invention: **SOYBEAN CULTIVAR SG5322NRR**		

PETITION FOR EXPUNGEMENT OF INFORMATION UNDER 37 C.F.R. §1.59

Mail Stop Petitions
Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

We have not received a Notice of Allowance on the above identified application. Applicant requests Expungement of Information under 37 C.F.R. §1.59 to expunge the Reply to Request for Information under 37 C.F.R §1.105 submitted on November 9, 2006 in the above identified application. Expungement of this information is appropriate because the Reply to Request for Information contains information that is a **TRADE SECRET** and has not been made public. Applicant will retain such information for the period of the life of the patent for which this information has been submitted. This petition to expunge is being submitted on behalf of the party in interest who originally submitted the information. Also attached is the appropriate fee of **$200** as set forth in 37. C.F.R. §1.17(g) for a petition under 37 C.F.R. §1.59(b). Please charge any additional fees or credit any overpayment for the payment of the Petition for Expungement of Information to deposit account number 50-2368.

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED					
NAME AND REG. NUMBER	ELIZABETH BENNETT-JARVIS, Reg. No. 53,982				
SIGNATURE	Elizabeth L. Bennett-Jarvis		DATE	December 14, 2006	
Address	Jondle & Associates P.C. 858 Happy Canyon Road, Suite 230				
City	Castle Rock	*State*	CO	*Zip Code*	80108
Country	U.S.A.	*Telephone*	303-799-6444	*Fax*	303-799-6898

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JOHN T. McNELIS
FENWICK & WEST LLP
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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OFFICE OF PETITIONS

In re Patent No. 6,909,731	:	
Issue Date: June 21, 2005	:	
Application No. 10/764,380	:	ON PETITION
Filed: January 22, 2004	:	
Attorney Docket No. 21676-07366	:	

This is a decision on the petition filed January 23, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to include 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 patent file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
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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AUG 10 2004

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

In re Application of :	:
Kanner et al.	:
Serial No.: 10/764,390	: PETITION TO MAKE SPECIAL
Filed: January 23, 2004	:
Attorney Docket No.: 511582008100	:

This is in response to applicant's petition filed January 23, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on applicants who are small entities having applications relating to biotechnology.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, XII (A), (B), and (C). Therefore, the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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Paper No.

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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JUL 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Raitano et al.	:	
Application No. 10/764,390	:	ON APPLICATION FOR
Filed: January 23, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 511582008100	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705 filed January 30, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is eighty-five (85) days, not zero (0) 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[1].

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] A request for continued examination (RCE) was first filed in this application on June 15, 2007.

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

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).

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[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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 the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Mail Date: 04/21/2010

Applicant	: Arthur B. Raitano	: DECISION ON REQUEST FOR
Patent Number	: 7638270	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/764,390	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **199** 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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IMPERIUM PATENT WORKS
P.O. BOX 587
SUNOL CA 94586

In re Patent No. 7,296,170	:	
Issue Date: November 13, 2007	:	
Application No 10/764,391	:	DECISION ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. ZIL-555	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed June 26,2 008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **DISMISSED**.

Petitioner states that the original Letters Patent was never received.

The Office follows the guidelines set forth in MPEP § 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is a strong presumption that the Office action (Letters Patent) was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Letters Patent was not in fact received. In this regard, the showing required to establish the failure to receive the Letters Patent must consist of the following:

1. a statement from practitioner stating that the Letters Patent 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 Letters Patent was not received; and
3. a copy of the docket record where the nonreceived Letters Patent would have been entered had it been received must be attached to and referenced in the practitioner's statement.

The petition is not accompanied by the evidence required to establish nonreceipt of the original Letters Patent. In this regard, petitioner has not [state here what evidence is lacking; e.g., Office records reflect that the Letters Patent was mailed to the address of record at the time which is the

same address cited above. The evidence submitted does not establish nonreceipt of the Letters Patent at that address.

In view of the above, the petition fails to provide the necessary evidence to establish nonreceipt of the Letters of Patent. Accordingly, the petition for issuance of a duplicate Letters Patent under 37 CFR 1.181 cannot be granted at this time. .

If petitioner cannot submit the required evidence to establish nonreceipt of the original Letters Patent or simply does not wish to, petitioner may wish to consider filing a petition under 37 CFR 1.182 requesting issuance of a duplicate Letters Patent and pay the required fee of $400 without the condition that the fee be refunded if the petition is granted..

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

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MAY 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Nelson Liang An Chang et al.	:	
Application No. 10/764,423	:	DECISION ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. 200310822-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 14, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed October 14, 2009. Accordingly, the date of abandonment of this application is January 15, 2010. A Notice of Abandonment was mailed on February 1, 2010.

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) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

As authorized the petition fee of $1,620 will be charged to deposit account no. 08-2025.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

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MAR 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,575,893
Simmons
Issue Date: August 18, 2009
Application No. 10/764,428
Filed: January 23, 2004
Attorney Docket No.
146392004900
Title: METHODS FOR PRODUCING HUMANIZED ANTIBODIES AND IMPROVING YIELD OF ANTIBODIES OR ANTIGEN BINDING FRAGMENTS IN CELL CULTURE

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 16, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred ninety-four (194) days. This requested correction includes, pursuant to their duty of candor and good faith to the Office, additional periods of reduction of 77 and 21 days

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN.**

Patentee's calculations include 295 days under 37 CFR 1.702(a) plus 142 days under 37 CFR 1.702(b) minus 243 days under 37 CFR 1.704 for applicant delay. The net result of patentee's calculation yields 194 days.

The petition will first address patentees candor comment. Pursuant to their duty of candor and good faith to the Office, patentees disclose that the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) patentee has informed the

Office that there are two additional instances in which a reduction is required.

Patentee is correct that a reduction of 77 days should have been entered based on 37 CFR 1.704(c)(8). 37 CFR 1.704(c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than 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;

It is undisputed that patentees submitted an IDS on August 31, 2007, after filing an initial response on June 15, 2007, to the final Office action. The record does not support a conclusion that the examiner expressly requested the IDS. Thus, patentees failed to engage in reasonable efforts to conclude prosecution of the application.

Patentees are also correct that a reduction of 21 days based upon 37 CFR 1.704 (c)(10). 37 CFR 1.704(c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) 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;

An IDS was submitted on June 17, 2009, after the mailing of the Notice of Allowance on April 8, 2009. A notice acknowledging the submission of the IDS was mailed on July 7, 2009. This period is 21 days, counting the number of days in the period beginning on June 17, 2007 and ending on July 7, 2007. Thus, patentee failed to engage in reasonable efforts to conclude prosecution of the application.

As such patentees delay totals 243 days (60 + 30+ 77+ 26+ 29 + 21).

The patent is entitled under 37 CFR 1.702(a) to 295 days. The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 142 days. There are zero days of overlap between 37 CFR 1.702(a) and 37 CFR 1.702(b).

Patentee's calculation does not reflect the reduction of 59 days in connection with the Notice of Appeal filed April 17, 2007. The reduction commenced April 17, 2007, the date that the Notice of Appeal was filed, and ended June 14, 2007, the day before the filing of the request for continued examination (RCE) was filed. See, 37 CFR 1.703(b)(4).

In view thereof, the patent is entitled to an overall adjustment of 135 days (295 days under 37 CFR 1.702(a) + 142 days under 37 CFR 1.702(b) - 0 overlapping days - 59 days pursuant to 37 CFR 1.703(b)(4) - 243 days of applicant delay).

The application is being forwarded to the Certificate 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 hundred thirty-five (135)** days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,575,893 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Simmons

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 150 days

Delete the phrase "by 150 days" and insert – by 135 days--

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MORRISON & FOERSTER LLP
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PALO ALTO, CA 94304-1018

Mail Date: 05/03/2010

Applicant	: Laura Simmons	: DECISION ON REQUEST FOR
Patent Number	: 7575893	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/764,428	: OF WYETH
Filed	: 01/23/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JAMES M. HESLIN
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO ENBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Zdeblick et al.	:	DECISION ON PETITION
Application No. 10/764,429	:	TO WITHDRAW
Filed: January 23, 2004	:	FROM RECORD
Attorney Docket No. PRTS-039 (PRO-2)	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 7, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on June 1, 2006 the power of attorney to Townsend and Townsend and Crew, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Proteus Biomedical, Inc.
Bozicevic, Field & Francis LLP
1900 University Avenue, Suite 200
East Palo Alto CA 94303

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of :
Geoffrey B. Rhoads :
Application No. 10/764,430 : DECISION ON PETITION
Filed: January 23, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P0929 :

This is a decision in response to the petition under 37 CFR 1.78(a)(3), filed August 31, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the Application Data Sheet (ADS) 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) 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. 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.

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 2624 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

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THERMO FINNIGAN LLC
355 RIVER OAKS PARKWAY
SAN JOSE CA 95134

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OFFICE OF PETITIONS

In re Application of	:	
Syka, John E. P.	:	
Application No. 10/764,435	:	DECISION GRANTING PETITION
Filed: January 23, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 12671-042001	:	

This is a decision on the petition, filed August 8, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 21, 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 December 1, 2005, accompanies this decision on petition.

This matter is being referred to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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JUN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Stafford	:	DECISION
Application No.: 10/764,445	:	
Filing Date: 27 January, 2004	:	
Attorney Docket No. 12713.01	:	

This is a decision on the petition filed on 5 December, 2005, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) 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. §1.137(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 3 September, 2004, with reply due absent extension of time on or before 3 December, 2004;
- the application went abandoned by operation of law after midnight 3 December, 2004;
- the Office mailed the Notice of Abandonment on 10 May, 2005;
- with the instant petition (with fee), Petitioner filed a reply in the form of an amendment, but made neither a statement nor showing of unintentional delay–and appeared to use the former one-year time limit on petitions to revive as an unpaid extension of time, which is not permitted, *inter alia*, because such would constitute an intentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

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[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

It appears as of this writing that Petitioner has yet to satisfy the "statement/showing" requirement under the regulation. (Petitioner may review the commentary set forth at MPEP §711.03(c) and the language at 37 C.F.R. §1.137(b) for guidance.)

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[7]

By mail: Commissioner for Patents[8]
P.O. Box 1450
Alexandria, VA 22313-1450

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[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is 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 .)

[8] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 10-07

Paper No: __

LITMAN LAW OFFICES, LTD
PO BOX 15035
CRYSTAL CITY STATION
ARLINGTON VA 22215

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OCT 09 2007

OFFICE OF PETITIONS

In re Application of
Stafford
Application No.: 10/764,445
Filing Date: 27 January, 2004
Attorney Docket No. 12713.01

DECISION

This is a decision on the petition filed on 11 September, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 3 September, 2004, with reply due absent extension of time on or before 3 December, 2004;

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- the application went abandoned by operation of law after midnight 3 December, 2004;
- the Office mailed the Notice of Abandonment on 10 May, 2005;
- with the original petition (with fee), Petitioner filed a reply in the form of an amendment, but made an insufficient showing of unintentional delay, in part because Petitioner appeared to use the former one-year time limit on petitions to revive as an unpaid extension of time, which is not permitted, *inter alia*, because such would constitute an intentional delay–and the petition was dismissed on 12 June, 2006, for a further showing;
- the instant petition seeks to address these deficiencies, and Petitioner responds with anger that the Office should consider the record; observe that (a) the application went abandoned after midnight 3 December, 2004, and (b) Petitioner filed a petition to revive on 5 December, 2005; and so inquire whether the former one-year limitation on petitions to revive was used as an unpaid extension of time–and Petitioner asserts over his signature and registration number that the entire delay was unintentional.

As discussed below, the Office accepts Petitioner's statement.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not

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evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of—

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004; effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[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.

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
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

The record (including the petitions filed on 5 December, 2005, and 11 September, 2006) does not necessitate a finding that the delay between midnight 3 December, 2004 (date of abandonment), and 11 September, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel John Remon Wenzel (Reg. No. 24,768) and Dolph H. Torrence (Reg. No. 34,501) when accepting Petitioners' representation that the delay in filing the response was unintentional.[9]

It appears that Petitioner has satisfied the requirements under the regulation.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 3600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571)

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[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of
Noriaki Ojima, et al.
Application No. 10/764,449
Filed: January 27, 2004
For:

IMAGING APPARATUS, IMAGING METHOD AND RECORDING MEDIUM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed September 16, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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

MCDERMOTT WILL & EMERY
600 13TH STREET NW
Washington, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of	:	
ITO, et al.	:	
Application No. 10/764,478	:	DECISION GRANTING PETITION
Filed: January 27, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **50072-025**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 19, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 18, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3653 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

SEAGATE TECHNOLOGY LLC
C/O MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

In re Application of	:	
Thomas Patrick Nolan	:	
Application No. 10/764,499	:	ON PETITION
Filed: January 27, 2004	:	
Attorney Docket No. 50103-525	:	

This is a decision on the petition, filed February 2, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 18, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1773 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

SEAGATE TECHNOLOGY LLC
C/O MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

In re Application of	:	
Thomas Patrick Nolan	:	
Application No. 10/764,499	:	ON PETITION
Filed: January 27, 2004	:	
Attorney Docket No. 50103-525	:	

This is a decision on the petition, filed February 2, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 18, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1773 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

RECEIVED
FEB 8 2007
McDermott Will & Emery LLP
DC Office

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Innovation Counsel LLP
21771 Stevens Creek Blvd
Ste. 200A
Cupertino, CA 95014

Mail Date: 04/21/2010

Applicant	: Jung Tae Kang	: DECISION ON REQUEST FOR
Patent Number	: 7589702	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/764,509	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **710** 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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P.O. BOX 2999, STATION D
900-55 METCALFE STREET
OTTAWA ON K1P5Y-6 CA CANADA

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JUN 28 2005

OFFICE OF PETITIONS

Applicant: Aubin et al.
Appl. No.: 10/764,516
Filing Date: January 27, 2004
Title: METHODS FOR CO-MODELLING AND ANALYZING PACKET NETWORKS OPERATING OVER OPTICAL NETWORKS
Attorney Docket No.: 71493-1210 /slb
Pub. No.: US 2004/0186701 A1
Pub. Date: September 23, 2004

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on November 19, 2004 for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains numerous material errors, such as misprinting ". . . link is protection" for ". . . link protection" abstract, ". . . network." for ". . . network," paragraph [0072], ". . . input." for ". . . input;" in claim 3, and ". . . computer, readable" for ". . . computer readable".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The errors noted by requestor wherein the phrases such as ". . . link is protection" is misprinted for ". . . link protection" in the abstract, ". . . network." is misprinted for ". . . network," in paragraph [0072], and ". . . computer, readable" is misprinted for ". . . computer readable" are Office errors, but the mistakes are minor typographical errors, which are clearly understandable to one of ordinary skill in reading the specification and the claims. With respect to ". . . input;" in claim 3, the text was correctly printed. The mistakes are minor typographical errors, which are clearly understandable from reading the claims in which the phrases are used, as terms are not read in a vacuum. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application

[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 provisional rights that an applicant may seek to enforce upon issuance of a patent.

Furthermore, these are not material errors since the Image File Wrapper (IFW) for this application is available to the public, as of its publication date.

The errors in this published application may be due in part to the poor quality of the text in the application. While the text is legible, many of the letters are not clear as some letters are incomplete. Applicant is advised that he may want to file application papers that are clearer, as some of the errors are due to faint or slightly blurred text, which may be due to the faxed papers.

Applicant should file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to 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: 703-872-9306 or after July 15, 2005, 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

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Nishimura, et al. :
Application No. 10/764,555 :
Filed: January 27, 2004 :
Attorney Docket No. 392.1862 :

DECISION GRANTING PETITION

This is a decision on the petition filed July 7, 2004, to vacate the Notice of Omitted Items in Nonprovisional Application mailed June 14, 2004, in the above-cited application.

The petition is **granted**.

On January 27, 2004, the above-identified application was filed. However, on June 14, 2004, the Office of Initial Patent Examination mailed a "Notice of omitted Items in Nonprovisional Application" stating that application had been accorded a filing date of January 27, 2004, and advising applicant that page 8 of the specification appeared to have been omitted. The notice set a two-month period for reply.

In response, on July 7, 2004, applicant filed the present petition , a copy of page 8 of specification, and an Office date-stamped postcard receipt acknowledging receipt of 17 pages of the specification, claims, and abstract among other items.

Upon review of the record, page 8 of the specification was not located among the application papers. However, the evidence is convincing that the application papers deposited January 27, 2004, included page 8, which was subsequently misplaced by the Office. Therefore, the application, including page 8 of the specification, was complete on filing and entitled to the presently accorded filing date of January 27, 2004.

Accordingly, the petition is granted; the Notice is vacated, accordingly.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of January 27, 2004, using the 17 pages of the specification filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

BLAKE, CASSELS & GRAYDON, LLP
45 O'CONNOR ST., 20TH FLOOR
OTTAWA ON K1P 1A4 CA CANADA

In re Application of :
Zhi Yuan Wang :
Application No.: 10/764,556 : ON PETITION
Filed: January 27, 2004 :
Attorney Docket No.: 101886/9 :

This a decision on the petition under 37 CFR 1.182 filed November 18, 2004.

The petition is **dismissed.**

The application was filed on January 27, 2004. The application included two sheets of drawings, however; none of the figures encompassed in the drawings were labeled "Figure 1" as identified in the specification. Accordingly, on October 13, 2004, the Initial Patent Examination Division mailed the Notice stating that the application had been accorded a filing date of January 27, 2004, but that Figure 1 appeared to have been omitted.

In response, the present petition was filed. Petitioner therein argued that Figure 1 accompanied the application papers; however, the USPTO removed Figure 1 mistakenly pursuant to a preliminary amendment that only required replacement of Figure 2 and 3.

The arguments have been considered, but are not persuasive. The Patent and Trademark Office file is the official record of the papers originally filed in this application. A review of the application file reveals that two sheets of drawings were filed on January 27, 2004, but no figures labeled Figure 1 were found among the two sheets of drawings originally filed. There is nothing in the file record to suggest a mistake was made in effecting the preliminary amendment that was filed on the same day as the subject application. The application transmittal sheet indicates that new formal drawings were filed on January 27, 2004. It is, therefore, more likely that all that was received on January 27, 2004, was scanned into the electronic file and unlikely that the USPTO deliberately did not scan Figure 1 into the electronic file in an effort to comply with the preliminary amendment. Petitioner must therefore establish that three sheets of drawings were received on January 27, 2004. The only *prima facie* evidence of the USPTO's receipt of three sheets of drawings is an Office date-stamped postcard receipt whereby the USPTO acknowledges receiving three sheets of drawings on January 27, 2004. No such evidence accompanied the petition; therefore, petitioner has not overcome the presumption that the official file record is accurate.

It is noted that petitioner indicates that Figure 1 can be found in the parent application. A review of the subject application did not reveal a proper incorporation by reference statement in the application transmittal or specification. Accordingly, the Office will not look to the parent application to provide any items that may have been omitted from the subject divisional application on filing.

The petition is dismissed.

Of course, applicant may submit Figure 1 of the drawings in the form of an amendment for consideration by the examiner to determine whether the drawing contains new matter compared to the original specification and drawings filed January 27, 2004. See 37 CFR 1.121.

The petition fee of $130.00 will be charged to deposit account 50-1456.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of January 27, 2004, using the 2 sheets of drawings filed January 27, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. None

Goudreau Gage Dubuc
Stock Exchange Tower, Suite 3400
800 Place Victoria
P.O. Box 242
Montreal QC H4Z 1E9 CA CANADA

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OFFICE OF PETITIONS

In re Application Of:
Jean Goudreau
Application No. 10/764,564
Filed: January 27, 2004
Attorney Docket No. GB/13598.2
Title: COMPOSITE FRENCH DOOR

DECISION ON PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(b)[1], filed on December 13, 2004.

The above-identified application was filed on January 27, 2004, without an executed oath or declaration and identifying Jean Goudreau as the sole inventor. On June 14, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge for the late filing of the oath or declaration. The notice set a two-month period for reply.

In reply, applicant filed the instant petition, along with the associated fee, the fee associated with the late filing of an oath or declaration, a four-month extension of time to make timely this response, and copies of several letters and e-mails.

Petitioner has not stated whether she is asserting that the non-signing inventor has refused to sign or that he cannot be found. Since a copy of the declaration was

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

purportedly sent to him, the Office will assume the former. Petitioner must notify the Office in writing if this is not a correct interpretation.

Petitioner has met requirements (1) - (2) above.

Regarding the third requirement, petitioner has failed to include a statement of the last known address of the non-signing inventor[2]. On renewed petition, Petitioner should provide the same.

Regarding the fourth and fifth requirements, petitioner has not shown that a *complete* copy of the application was sent to the non-signing inventor. First, Petitioner has stated that the only item which was sent to the inventor was the declaration. None of the letters or the e-mails state that a copy of the application was enclosed. Had the application been included, it seems that it would have been mentioned in the petition and in each of the letters. As such, it is clear that the Rule 47 applicant did not present the inventor with a copy of the entire application.

Secondly, each of the letters and the e-mails were sent by someone other than the Petitioner, and as such, she does not have first-hand knowledge of the events.

Furthermore, none of the e-mails and the letters appear to be related to the instant application, as the reference numbers do not match up with the attorney docket number listed on the declaration.

It follows that one cannot refuse to sign something which one has not been presented with. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[3].

On renewed petition, Petitioner should send a complete copy of the application to the inventor at his last known address and wait an appropriate time before determining that he has refused to execute the application.

Regarding the sixth requirement above, Rule 47(b) applicant has failed to prove sufficient proprietary interest in the subject matter to justify the filing of the application[4]. Petitioner has included a copy of the Assignment document, but it is noted that the document has not been executed. As such, it appears that the inventor never assigned any rights in the present invention to Rule 47(b) applicant. On renewed petition, the petitioner should provide either an executed assignment showing that the invention disclosed in the application is assigned to 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 the authority, award title to the invention to the Rule 47(b) applicant.

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2 See MPEP 409.03(e).
3 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
4 See MPEP §409.03(f).

Regarding the seventh requirement above, no proof of irreparable damage has been submitted[5]. A statement by Rule 47(b) applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

Regarding the eighth requirement above, the declaration cannot be accepted as nobody has executed the declaration on behalf of the inventor. See MPEP 409.03(b)(A). On renewed petition, Petitioner should have this deficiency rectified.

For these reasons, the petition under 37 C.F.R. 1.47(b) must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(b)." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition under 37 C.F.R. §1.47(b) should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[6], hand-delivery[7], or facsimile[8].

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

5 See MPEP §409.03(g).
6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
7 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.
8 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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C/O KEATING & BENNETT, LLP
8180 GREENSBORO DRIVE, SUITE 850
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of :
Yuko Yokoi et al :
Application No. 10/764,568 :
Filed: January 27, 2004 :
Attorney Docket No. 36856.1195

ON PETITION

This is a decision on the petition, filed November 17, 2005 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 29, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2834 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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In re Application of

Montoyama, et al.

Application No. 10/764,569

Filed: January 27, 2004

Attorney Docket No. 245418US-2

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed November 26, 2008.

The petition is **dismissed**.

This application was held abandoned October 18, 2008, after no reply was received to the "Pre-Interview Communication" mailed September 17, 2008. The notice set forth a non-extendable period of reply of one month from its mailing date. No response was received within the allowable period and the application became abandoned on October 18, 2008. A Notice of Abandonment was mailed December 4, 2008. The instant petition was filed on December 4, 2008. Petitioner maintains that the notice of September 17, 2008, 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 provide a copy of the master docket showing all replies docketed for a date one month from the mail date of the non-received Office action. 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 September 17,2 008, 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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OFFICE OF PETITIONS

In re Application of

Montoyama, et al.

Application No. 10/764,569

Filed: January 27, 2004

Attorney Docket No. 245418US-2

DECISION ON PETITION

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed December 19, 2008.

The renewed petition is **granted**.

This application was held abandoned October 18, 2008, after no reply was received to the "Pre-Interview Communication" mailed September 17, 2008. The notice set forth a non-extendable period of reply of one month from its mailing date. No response was received within the allowable period and the application became abandoned on October 18, 2008. A Notice of Abandonment was mailed December 4, 2008. The instant petition was filed on December 4, 2008. Petitioner maintains that the notice of September 17, 2008, 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 2400, GAU 2452 for further processing that may include remailing the "Pre-Interview Communication" mailed September 17, 2008, and resetting of the period for reply. It is noted that petitioner filed a response to the communication on January 15, 2009. The Technology Center may determine that re-mailing of the "Pre-Interview Communication" is not necessary and treat the amendment filed January 15, 2009. Questions regarding the entry of the amendment should be directed to the Technology Center.

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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40 KING STREET WEST - SUITE 4000 BOX 401
TORONTO, ONTARIO M5H 3Y2
CANADA

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ON PETITION

In re Application of	:	
Jerry Moscovitch	:	
Application No. 10/764,572	:	
Filed: January 27, 2004	:	
Attorney Docket No. 13772-3	:	

This is a decision on papers filed on September 23, 2004, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of January 27, 2004, including Figures 16 and 17, as described in the specification.

The application was filed on January 27, 2004. However, on July 23, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s) in a Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, and "Figures 16, 17 described in the specification" appear to have been omitted.

In response, on September 23, 2004, the instant petition was submitted. The petition states, "As can be seen from the return receipt card having a USPTO stamp on it, eight pages of drawings were filed on January 27, 2004, which represents the full complement of figures." However, petitioner has not submitted a copy of the missing Figures (as originally submitted on January 27, 2004), and therefore, a complete review of the instant petition on the merits is not possible.

At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. Petitioner should submit a copy of the missing Figures (as originally submitted on January 27, 2004). No additional petition fee is required for such a request.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

10/2/07

In re Application of:
Shimada, Takaaki, et al.
Serial No. 10/764,589
Filed: Jan. 27, 2004
Docket: 2038-323
Title: PANTS-TYPE DISPOSABLE WEARING ARTICLE

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petitions filed Sep. 6, 2007 under 37 CFR 1.181 requesting supervisory review of the advisory action mailed Jul. 6, 2007. In the petition, petitioner requests entry of the amendment after final filed on Jun. 14, 2007 under 37 CFR 1.116. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

The examiner was requested to enter the amendment after final filed on Jun. 14, 2007 for appeal purposes because the amendment neither raised new issues nor added new claims. Additionally, some claims were canceled to reduce the issues of appeal. A review of the final rejection shows that all claims were rejected under 35 USC 102(b) as anticipated by Okuda, et al. (JP 2001157690). In the present amendment under 37 CFR 1.116, the applicant merely re-writes claims 4, 11, 13, and 18 in independent form without any changes of scope and cancels claims 1-3, 7-10 and 17 without adding any new claims to reduce the appealable issues. Therefore, there is no reason not to enter the amendment after final for appeal purposes. All claims remain rejected under 35 USC 102(b) as anticipated by Okuda et al (JP 2001157690).

In finding petitioner's points of argument persuasive, the requested relief is granted. The advisory action mailed on Jul. 6, 2007 is hereby vacated. A new advisory action will be issued in due course not inconsistent with the present decision.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

for Karen M. Young
Frederick R. Schmidt, Director
Technology Center 3700

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Commissioner for Patents
United States Patent and Trademark Office
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Henry M. Bissell, Esq.
Suite 106
6820 La Tijera Boulevard
Los Angeles CA 90045

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In re Application of	:	
Gary T. Garman	:	
Application No. 10/764,594	:	DECISION ON PETITION
Filed: January 26, 2004	:	
Attorney Docket No. 1543	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue on or before June 15, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 15, 2007. Accordingly, the date of abandonment of this application is June 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700, (2) the petition fee of $750; 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 Publishing Division for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

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1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

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In re Application of	:	
Sato, et al.	:	
Application No. 10/764,598	:	DECISION ON PETITION
Filed: 27 January, 2004	:	
Attorney Docket No. FEC 111	:	

This is a decision on the petition under 37 C.F.R. §1.53, filed on 16 November, 2004, requesting that Figs. 20 and 21 be accorded a filing date of 27 January, 2004, with the above-identified application .

The petition is **DISMISSED**.

The application was deposited on 27 January, 2004.

On 14 June, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Missing Parts" and therein indicated that Figs. 20 and 21 as described in the specification appeared to be omitted from the application. On 12 August, 2004, Petitioner replied to the Notice of Missing Parts to the extent that fees, oath/declaration and surcharge were submitted, however, there was no reference to the omitted drawings.

On 17 September, 2004, OIPE mailed a Notice of Omitted Items, again noting that Figs. 20 and 21 as described in the specification appeared to be omitted from the application as deposited. The Notice informed Petitioner that the alternatives available were to: (a) petition contending that the application was deposited with the drawings; (b) file the drawings and accept their deposit date as the filing date of the application; or (c) prosecute the application as deposited on 27 January, 2004.

On 16 November, 2004, Petitioner filed the instant petition and alleged therein that Figs. 20 and 21 as described in the specification were omitted and that Petitioner: (a) elected to prosecute on the basis of the application as filed; and (b) alleged that the omitted drawings in question were contained in foreign priority documents deposited with and incorporated by reference into the application and Petitioner would seek to have the drawings entered through a preliminary amendment, which Petitioner filed contemporaneously with the petition.

While Petitioner seeks to depend upon the incorporation by reference to bring into the application the drawings (Figs. 20 and 21) referenced from the foreign application deposited with the instant application, that is a matter for amendment–properly a preliminary amendment, which Petitioner has filed–and consideration of amendment is the province of the Examiner. This process requires no petition.

The Examiner shall review, during the examination process, the sufficiency of the showing made as it relates to the "Preliminary Amendment" to ensure that the inclusion of Figs. 20 and 21 sought to be incorporated by reference would present no new matter.

The petition is **dismissed**. No fee was charged.

The application is being forwarded to OIPE for further processing with a filing date of 27 January, 2004, using only the application papers present on filing. It does not appear that a corrected filing receipt is required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 08 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VIRGINIA 22209-9889

In re Application of: Mizuno
Application No. 10/764,600
Filed: January 27, 2004
For: STORAGE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII) AND 37 C.F.R. §1.102(d)

This is a response to the petition filed November 09, 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 of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) 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, **petitioner 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, petitioner will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed

petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

The petition filed November 09, 2004 fails to adequately meet requirement (e) of the criteria set forth above.

With respect to requirement (e), a complete detailed discussion of the aforementioned most closely related references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c), with respect to independent claim 16. Petitioner's submission is deficient in that it merely paraphrases one or two paragraphs of each reference (as in the discussion of U.S. Patent Application No. 2004/0148479, which paraphrases paragraph 20) accompanied by a single statement that the references do not include certain features of the claimed invention. Many of the limitations of claim 16 do not appear to have been discussed, including, for example, a proxy device. In addition, the main feature alleged to be absent from the prior art is not actually claimed. For example, "...where the controller controls the device to ***temporarily*** store block data..." (line 3, page 5 of the petition) is not recited in the claims.

That is, the submission does not satisfy the requirement, as it does not provide a ***detailed discussion*** of the references and it does not point out how the ***claimed subject matter is patentable over the references***. Petitioner should ensure that the above discussion is directed to how the language of ***each of*** the independent claims 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.

Brian L. Johnson
Special Program Examiner 1/20/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

HMJ: 01/24/2005

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TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Application of: Makio MIZUNO
Application No. 10/764,600
Filed: January 27, 2004
For: 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 March 28, 2005 (Supplemented June 16, 2005) 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 November 9, 2004, and dismissed on February 8, 2005.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with 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

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McDERMOTT, WILL & EMERY
600 13TH STREET NW
WASHINGTON, DC 20005-3096

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JAN 29 2007

OFFICE OF PETITIONS

In re Application of	:
Thomas Patrick Nolan et al	:
Application No. 10/764,602	: DECISION GRANTING PETITION
Filed: January 27, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50103-523	:

This is a decision on the petition, filed January 29, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 18, 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 1773 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment.*

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McDERMOTT, WILL & EMERY
600 13TH STREET NW
WASHINGTON, DC 20005-3096

In re Application of
Thomas Patrick Nolan et al
Application No. 10/764,602
Filed: January 27, 2004
Attorney Docket No. 50103-523

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed January 29, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 18, 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 1773 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Robert Hartzell	: DECISION ON REQUEST FOR
Patent Number	: 7657185	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/764,605	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1224** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BLOOMFIELD HILLS, MI 48303

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OFFICE OF PETITIONS

In re Application of
Satoshi Taguchi et al
Application No. 10/764,607
Filed: January 23, 2004
Attorney Docket No. 9319S-000627

ON PETITION

This is a decision on the petition under 37 CFR 1.313, filed November 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 October 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

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 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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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

www.uspto.gov

Date : December 8, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Satoshi Taguchi et al
Application No. : 10/764,607
Filed : January 23, 2004

The above-identified application has been assigned Patent No. 6,980,274 and an issue date of December 27, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 27, 2005:

"All reference to Patent No. 6,980,274 to Satoshi Taguchi et al of Matsumoto-shi, JAPAN for ELECTRO-OPTICAL DEVICE SUBSTRATE, ELECTRO-OPTICAL DEVICE, AND ELECTRONIC APPARATUS appearing in the Official Gazette of December 27, 2005 should be deleted since no patent was granted."

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

cc: Paul Harrison; MDW, Suite 04B03 (FAX-571-273-5468)
Deneise Boyd, MDE, Suite 03D39 (FAX-571-273-5124)
Mary Louise McAskill, South Tower, Suite 8C15(FAX 305-4372)
Niomi Farmer, South Tower, Suite 8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE, Suite 07C71 (FAX-571-273-0038)
Duane Davis (CDS), MDE, Suite 07D89
Tamara K. Greene, South Tower, Suite 08C13

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JAN 13 2006

OFFICE OF PETITIONS

FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

In re Application of :
McAlister, et al. : DECISION ON PETITION
Application No. 10/764,619 :
Filed: January 26, 2004 :
Atty. Docket No.: 10121/00308 :

The above-identified application has been forwarded to the Office of Petitions for consideration of the "PETITION TO WITHDARW HOLDING OF ABANDONED PATENT APPLICATION" filed July 8, 2005.

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 was became abandoned November 4, 2004 for failure to timely submit a proper reply to the non-final Office action mailed August 3, 2004. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed June 2, 2005.

Petitioners argue that the non-final Office action was "mailed to the wrong address and was never received by the Applicants." Petitioners further indicate that a search of applicants' file and docket records indicate the non-final Office action was not received. While a copy of the docket report is referenced as accompanying the instant petition, review of the application file does not reveal receipt of such.

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 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.

Moreover, petitioners are advised that where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply), petitioners are required to establish that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (See, MPEP 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. See, MPEP 711.03(c).

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. Moreover, a review of the application file does not indicate that a change of correspondence address was submitted prior to the mailing of the non-final Office action.

ALTERNATE VENUE

Petitioners are strongly urged to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that

the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 Dulany Street Alexandria, VA 22314

The requested change of correspondence address submitted July 8, 2005 has been entered into the record.

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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OFFICE OF PETITIONS

FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

In re Application of	:
McAlister, et al.	: DECISION ON PETITION
Application No. 10/764,619	:
Filed: January 26, 2004	:
Atty. Docket No.: 10121/00308	:

The decision is in response to the petition renewed under 37 CFR 1.137(b) filed January 23, 2006.

The petition under 37 CFR 1.137(b) is hereby **GRANTED**.

This application was became abandoned November 4, 2004 for failure to timely submit a proper reply to the non-final Office action mailed August 3, 2004. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed June 2, 2005. A petition under 37 CFR 1.181 was filed July 8, 2005 and dismissed January 13, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 3700.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: Rolando M. Puno	: DECISION ON REQUEST FOR
Patent Number	: 7625379	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/764,621	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1561** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 20 2005

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 5TH AVE FL 16
NEW YORK, NY 10001-7708

In re Application of HIKOSAKA ET AL.	:	
Appl. No.: 10/764,652	:	**WITHDRAWAL FROM ISSUE**
Filed: January 26, 2004	:	*37 CFR 1.313*
For: LUBRICATING STRUCTURE FOR OUTBOARD MOTORS	:	

The above-identified application is withdrawn from issue to permit re-opening of prosecution. See 37 CFR 1.313.

The above-identified application is hereby **withdrawn from issue**.

Subsequent to the mailing of the Notice of Allowability, a new issue was discovered that was believed to pose a significant bearing on the patentability of at least one claim pending in the allowed application. The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquiries regarding this notice should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684. Telephone inquiries regarding the status of the claims and other examination on the merits issues should be directed to the examiner of record, Jesus Sotelo, at (571) 272-6686.

Robert J. Oberleitner
Director, Patent Technology Center 3600

SJM: 6/20/2005

SP

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/21/06

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/764657 Patent No.: 7050447B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

2616
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73113

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OCT 3 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Thomas J. Luby	:	
Application No. 10/764,669	:	
Filing or 371(c) Date: 01/26/2004	:	
Attorney Docket Number: 5671.051	:	ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Notice of Allowance, filed July 27, 2006.

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 (Notice), mailed February 9, 2006. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on May 10, 2006. A Notice of Abandonment was mailed June 23, 2006.

With the instant petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence. Applicant has also submitted the issue fee with the petition.

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 Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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Michael B. Martin
Patent and Licensing Department
Nalco Company
1601 West Diehl Road
Naperville, IL 60563-1198

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AUG 16 2005

OFFICE OF PETITIONS

In re Application of	:
Jawed Sarkar, et. al.	:
Application No. 10/764,684	: DECISION GRANTING PETITION
Filed: January 23, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 7673-P2	:

This is a decision on the petition, filed by facsimile transmission on April 7, 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 21, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 24, 2005 accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1724, for review of the amendment filed May 23, 2005.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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John S. Pratt, Esq.
Kilpatrick Stockton, LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

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JAN 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Gary L. Bowlin et al.	:	
Application No. 10/764,691	:	DECISION ON PETITION
Filed: January 26, 2004	:	TO WITHDRAW
Attorney Docket No. 49122-0142(297109)	:	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 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 John K. McDonald, Ph.D on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed November 1, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Gary L. Bowlin**
7016 Meredith Farms Drive
Mechanicsville, VA 23111

cc: **Beth E. Arnold**
Foley Hoag LLP
155 Seaport Boulevard
Boston, MA 02210-2600

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/764,691	01/26/2004	Gary L. Bowlin	49122-0142(297109)

CONFIRMATION NO. 9462

POWER OF ATTORNEY NOTICE

OC000000027595512

John S. Pratt, Esq.
Kilpatrick Stockton, LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

Date Mailed: 01/08/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/15/2007.

- 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.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

John R. Ross, III
Ross Patent Law Office
P.O. Box 2138
Del Mar CA 92014

In re Application of	:	
John Hoffman	:	**DECISION ON PETITION**
Application No. 10/764,710	:	
Filed: 01/24/2004	:	
Attorney Docket No.	:	

This is a decision on the Petition To Withdraw Holding of Abandonment under 37CFR 1.81 (a), received in the United States Patent and Trademark Office (USPTO) January 29 and January 30, 2008.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue fee and Publication fee as required by the Notice of Allowance, mailed September 24, 2007 which set forth a three (3) month statutory period for reply. The issue fee was not received prior to the abandonment date. Accordingly, the Notice of Abandonment was mailed on January 24, 2008. The issue fee transmittal and a check for $1, 740.00 was received on January 25, 2008

Petitioner states that the issue fee transmittal and payment were timely filed on December 24, 2007. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing.

In view of the foregoing, the holding of abandonment for failure to timely submit the issue fee is hereby withdrawn and the application is restored to pending status.

The application will be forwarded to the Publications Branch for processing.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Data Management at 571-272-4200.

Kimberly Terrell, Manager
Office of Data Management
Publications Branch

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JOHN W. WUSTENBERG
P.O. BOX 1431
DUNCAN OK 73536

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AUG 04 2008

OFFICE OF PETITIONS

In re Patent No. 7,093,678 :
Issued: August 22, 2006 :
Application No. 10/764,714 :
Filed: January 26, 2004 :
For: METHOD AND APPARATUS FOR :
REMOVING FLUIDS FROM DRILL :
CUTTINGS :

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.

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) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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MICHAEL BEST & FRIEDRICH, LLP
ONE SOUTH PINCKNEY STREET
P O BOX 1806
MADISON, WI 53701

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JUN 19 2006
OFFICE OF PETITIONS

In re Application of
Louis R. Matson
Application No. 10/764,716
Filed: January 26, 2004
Attorney Docket No. 88293-9001

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed March 6, 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 application was handled by Attorney Grady J. Frenchick who has departed from Michael Best & Friedrich LLP.", 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.

There is an outstanding Office action, mailed February 8, 2006, that requires are reply from the applicant.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: SURGICA CORPORATION
ATTN: LOUIS R. MATSON
5090 ROBERT J. MATHEWS PKWY, #4
EL DORADO HILLS, CA 95762

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Paper No.

CLARK & ELBING LLP
101 FEDERAL STREET
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APR 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Muller-Hermelink et al.	:	
Application No. 10/764,730	:	LETTER REGARDING
Filed: January 26, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 50274/021002	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed January 22, 2008. Pursuant to their duty of good faith and candor to the Office, applicants disclose that the determination of patent term adjustment under 35 U.S.C. 154(b) mailed with the Notice of Allowance appears to be in error.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is ten **(10)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 19, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 74 days. Applicants do not state a basis for their disclosure that the patent term adjustment is in error.

Nonetheless, a review of the application history reveals that an additional period of reduction should have been entered. A

request for continued examination (RCE) and amendment were not filed in response to the Office action mailed March 21, 2007 until August 24, 2007. As such, a period of reduction of 64 days should have been entered pursuant to 37 C.F.R. §1.704(b).

In view thereof, the initial determination of the patent term adjustment at the time of the mailing of the notice of allowance is ten (10) 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 application is being forwarded to the Publications Division for issuance of a 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) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Friday
Date: 4/11/2008

PALM INTRANET

Time: 18:01:34

PTA Calculations for Application: 10/764730			
Application Filing Date:	01/26/2004	PTO Delay (PTO):	236
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	162
Post-Issue Petitions:	0	Total PTA (days):	10
PTO Delay Adjustment:	-64		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
68	04/11/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		64	
57	11/19/2007	MAIL NOTICE OF ALLOWANCE			
56	11/14/2007	ISSUE REVISION COMPLETED			
55	11/04/2007	DOCUMENT VERIFICATION			
54	11/14/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	11/13/2007	NOTICE OF ALLOWABILITY			
51	08/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	08/31/2007	DATE FORWARDED TO EXAMINER			
49	08/24/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
48	08/31/2007	DATE FORWARDED TO EXAMINER			
47	08/24/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
46	08/31/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
45	08/24/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	08/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	08/24/2007	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
42	08/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	08/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	08/24/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	03/21/2007	MAIL FINAL REJECTION (PTOL - 326)			

38	03/16/2007	FINAL REJECTION			
37	12/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36.7	12/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	32
36	12/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	12/22/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
34	12/22/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
33	01/09/2007	DATE FORWARDED TO EXAMINER			
32	12/22/2006	RESPONSE AFTER NON-FINAL ACTION		93	30
31	12/22/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	06/20/2006	MAIL NON-FINAL REJECTION			
29	06/12/2006	NON-FINAL REJECTION			
28	04/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	03/29/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	05/15/2006	CASE DOCKETED TO EXAMINER IN GAU			
25.7	04/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	23
25	04/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	05/03/2006	DATE FORWARDED TO EXAMINER			
23	04/27/2006	RESPONSE TO ELECTION / RESTRICTION FILED		69	20
22	04/27/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	01/11/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	11/17/2005	MAIL RESTRICTION REQUIREMENT	236		-1
19	11/14/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
18	07/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
17.7	03/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	03/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	10/14/2004	PRELIMINARY AMENDMENT			
15	11/17/2004	CASE DOCKETED TO EXAMINER IN GAU			

14	11/03/2004	APPLICATION RETURN FROM OIPE			
13	11/03/2004	APPLICATION RETURN TO OIPE			
12	11/03/2004	APPLICATION DISPATCHED FROM OIPE			
11	11/03/2004	APPLICATION IS NOW COMPLETE			
10	10/12/2004	ADDITIONAL APPLICATION FILING FEES			
9	10/12/2004	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
8	10/12/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	10/25/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
6	08/10/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	03/23/2004	CLEARED BY L&R (LARS)			
4	03/11/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	03/11/2004	CASE CLASSIFIED BY OIPE			
2	02/03/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/26/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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BOSTON MA 02110

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DEC 15 2008

OFFICE OF PETITIONS

In re Patent No. 7,378,247	:	
Muller-Hermelink et al.	:	DECISION ON REQUEST
Issue Date: May 27, 2008	:	FOR RECONSIDERATION OF
Application No. 10/764,730	:	PATENT TERM ADJUSTMENT
Filed: January 26, 2004	:	and
Atty Docket No. 50274/021002	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" filed July 28, 2008. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 15 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of fifteen (15) days.

On May 24, 2005, the above-identified application matured into U.S. Patent No. 7,378,247. The instant request for reconsideration filed July 28, 2008 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of zero (0) days. In essence, Patentees' dispute the reduction of record, one for 120 days associated with the filing of a "miscellaneous incoming letter" received in the Office on January 22, 2008. Patentees state that the paper filed with the response to the

notice of allowance was a Request for Reconsideration of Patent Term Adjustment with the payment of the issue fee and thus, no reduction is warranted.

Patentees' contention is well taken. The OG Notice states that:

> … the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

Pursuant to 37 CFR 1.704(e):

> Submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

A review of the documents submitted on January 22, 2008 shows that the following documents were submitted: issue fee transmittal, a request for reconsideration of patent term adjustment (candor letter)and a transmittal letter (miscellaneous incoming letter).

In view thereof, the patent term adjustment indicated on the patent should be fifteen (15) days.

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 FIFTEEN (15) days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,378,247 B2

DATED : May 27, 2008

INVENTOR(S) : MULLER-HERMELINK, 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 526 days

Delete the phrase "by 0 days" and insert – by 15 days--

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300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Bruce McKendry, et al.	:	
Application No. 10/764,731	:	ON PETITION
Filed: January 26, 2004	:	
Attorney Docket No. 2312.69388	:	

This is a decision in response to the petition, filed March 26, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED** because it is unsigned. It is noted that the petition was intended to be signed by applicant's registered attorney, Patrick G. Burns.

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).

Since the petition containing the statement of unintentional delay is unsigned, the petition is considered to not contain a proper statement of unintentional delay.

This decision is made without prejudice to reconsideration. However, 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
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 05 2007

OFFICE OF PETITIONS

PATRICK G. BURNS, ESQ.
GREER, BURNS & CRAIN, LTD.
SUITE 2500
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

In re Application of
Bruce McKendry, et al.
Application No. 10/764,731
Filed: June 26, 2004
Attorney Docket No. 2312.69388

ON PETITION

This is a decision on the renewed petition, filed August 17, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed June 5, 2006. On March 26, 2007 a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed by a decision mailed August 8, 2007. In response, on August 17, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Accordingly, the petition is **GRANTED**.

The application is being referred to Technology Center AU 3767 for appropriate action by the Examiner in the normal course of business on the response received August 17, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FEB -1 2005

In re Application of	:	
Daniel Mignano	:	
Serial No. 10/764,733	:	DECISION ON PETITION
Filed: January 26, 2004	:	TO MAKE SPECIAL
For: BACKPACK HUNTING BLIND	:	
FOR A TREE STAND	:	

Applicant's petition, filed August 30, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E.R. Kazenske, Director
Technology Center 3700

Bernard S. Hoffman
460 Old Town Road, Suite 7F
Port Jefferson Station, NY 11776

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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KONRAD RAYNES & VICTOR, LLP
ATTN: IBM54
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS CA 90212

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MAR 16 2010

In re Application of	:	
Fontoura et al.	:	
Application No. 10/764,771	:	DECISION ON PETITION
Filed: January 26, 2004	:	
Attorney Docket No. SVL920030116US1	:	

This is a decision on the petition, filed September 19, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Allowance mailed April 6, 2007, which set a three (3) month statutory period for reply. A reply was due on or before July 6, 2007. A Notice of Abandonment was mailed on August 1, 2007.

Petitioner asserts that the Office action dated April 6, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2166 for re-mailing the Office action of April 6, 2007. The period for reply will run from the mailing date of the Office action.

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

GARY PETERSON
211 N. ROBINSON AVE., SUITE 450
OKLAHOMA CITY, OK 73102

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FEB 09 2006

OFFICE OF PETITIONS

In re Application of
Edward L. Gibbs
Application No. 10/764,788
Filed: January 26, 2004
Attorney Docket No. N/A

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petition filed May 25, 2005 and supplemented on October 17, 2005, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

This nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). This application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/509,026, which was filed on October 6, 2003, for which priority is claimed.

Additionally, intermediate nonprovisional application No. 10/306,125 was filed within twelve months of provisional Application No. 60/370,372, which was filed on April 5, 2002, for which priority is claimed. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

This application is being referred to Technology Center Art Unit 3679, for appropriate action on the amendment submitted October 17, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Any questions concerning this matter may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/764,788	01/26/2004	3679	617		16	41	4

CONFIRMATION NO. 9762

CORRECTED FILING RECEIPT

OC000000018012021

27193
GARY PETERSON
211 N. ROBINSON AVE., SUITE 450
OKLAHOMA CITY, OK 73102

Date Mailed: 02/08/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Edward L. Gibbs, Tulsa, OK;

Power of Attorney:

Gary Peterson--28891

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/509,026 10/06/2003
and is a CIP of 10/306,125 11/27/2002 PAT 6,874,767
which claims benefit of 60/370,372 04/05/2002

Foreign Applications

If Required, Foreign Filing License Granted: 09/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/764,788

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Cable fence system

Preliminary Class

256

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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Janaki K. Davda
Konrad Raynes & Victor, LLP
315 South Beverly Drive
Suite 210
Beverly Hills CA 90212

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FEB 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Marcus F. Fontoura et al.	:	
Application No. 10/764,800	:	DECISION GRANTING PETITION
Filed: January 26, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SVL920030118US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 5, 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 August 3, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2166 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed February 5, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	M.F. FONTOURA et al.	Examiner	Mohammad Ali
Serial No.	10/764,800	Group Art Unit	2166
Filed	January 26, 2004	Docket No.	SVL920030118US1
TITLE	ARCHITECTURE FOR AN INDEXER		

CERTIFICATE UNDER 37 CFR 1.8:
I hereby certify that this correspondence is being transmitted through the USPTO EFS-Web system over the Internet to Mohammad Ali of the U.S. Patent and Trademark Office on February 5, 2008.

_/Janaki K. Davda/_____
Janaki K. Davda Reg. No. 40,684

PETITION TO WITHDRAW FROM ISSUE UNDER 37 C.F.R. 1.313(c)(2)

Dear Sir:

Applicants petition under 37 CFR 1.313(c)(2) to withdraw the above application from issue. With this Petition, Applicants are submitting a Request for Continued Examination in compliance with 37 C.F.R. 1.114(a)(1) and are submitting an Information Disclosure Statement with the Request for Continued Examination under 37 C.F.R. 1.114 (c).

A petition fee under 37 C.F.R. 1.17(h) in the amount of $130 may be charged to Deposit Account No. 09-0460. If any additional fees are required, please charge Deposit Account No. 09-0460.

Dated: February 5, 2008

By:___/Janaki K. Davda/_____
Janaki K. Davda
Registration No. 40,684

Please direct all correspondences to:

Janaki K. Davda
Konrad Raynes & Victor, LLP
315 South Beverly Drive, Ste. 210
Beverly Hills, CA 90212
Tel: (310) 553-7973
Fax: 310-556-7984

Adjustment date: 02/08/2008 AKELLEY
02/06/2008 INTEFSW 00003795 090460 10764800
02 FC:1808 130.00 CR

02/08/2008 AKELLEY 00000004 090460 10764800
01 FC:1464 130.00 DA

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10764800

Total Records Found: 9

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
02/06/2008	00006347	4	1801	$810.00	02/05/2008	DA 090460
02/06/2008	00006349	4	1808	$130.00	02/05/2008	DA 090460
08/06/2007	00003807	4	1501	$1,400.00	08/03/2007	DA 090460
08/06/2007	00003808	4	1504	$300.00	08/03/2007	DA 090460
03/05/2007	00001764	4	1801	$790.00	03/02/2007	DA 090460
09/13/2006	00001437	4	1806	$180.00	09/12/2006	DA 090460
05/17/2004	00000995		8021	$40.00	05/17/2004	DA 090460
01/30/2004	00000061	1	1001	$770.00	01/26/2004	DA 090460
01/30/2004	00000062	1	1202	$180.00	01/26/2004	DA 090460

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LARSON NEWMAN & ABEL, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN, TX 78730

Mail Date: 04/28/2010

Applicant	: Dale Roush	: DECISION ON REQUEST FOR
Patent Number	: 7641553	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/764,814	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/26/2004	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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HISCOCK & BARCLAY, LLP
2000 HSBC PLAZA
ROCHESTER, NY 14604-2404

In re Application of
William J. Cultrara
Application No. 10/764,830
Filed: January 26, 2004
Attorney Docket No. 20011.000201

ON PETITION

This is a decision in response to the petition, filed June 15, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed December 2, 2005. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 3617 for consideration of the amendment filed June 15 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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G.E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

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SEP 15 2004

OFFICE OF PETITIONS

In re Application of	
Ayalon-Soffer et al.	
Application No. 10/764,833	DECISION ACCORDING STATUS
Filed: January 27, 2004	UNDER 37 CFR 1.47(a)
Attorney Docket No. 27256	
For: NOVEL POLYNUCLEOTIDES ENCODING	
SOLUBLE POLYPEPTIDES AND METHODS	
USING SAME	

This is in response to the petition under 37 CFR 1.47(a), filed July 30, 2004. Petitioner obtained a two-month extension of time to respond. Accordingly, the petition is timely filed.

The petition is granted.

Petitioner has shown that Liat Mintz, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the Declaration of Facts of D'vorah Graeser establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center Art Unit 1631 for examination 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

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)
6,979,133	2005-12-27	10/764,844	2004-01-26	205_062

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	/James R. Muldoon/	Date (YYYY-MM-DD)	2010-04-01
Name	James R. Muldoon	Registration Number	38249

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6979133
Issue Date: December 27,2005
Application No. 10764844
Filed: January 26,2004
Attorney Docket No. 205P062

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 1,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 1,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ALLAN J. GRANT, ESQ.
C/O CARELLA, BYNE, BAIN GILFILLAN,
CECCHI, STEWART & OLSTEIN
6 BECKER FARM ROAD
ROSELAND NJ 07068

COPY MAILED

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OFFICE OF PETITIONS

In re Application of	:	
ZAKS, Arthur	:	
Application No. 10/764,857	:	DECISION ON PETITION
Filed: January 26, 2004	:	TO WITHDRAW
Attorney Docket No. **763510-3**	:	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 July 18, 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 Elliot M. Olstein on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Arthur Zaks at the address indicated below.

There is an outstanding Office action mailed February 22, 2008 that requires a reply from the 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: **ARTHUR ZAKS**
1512 PALISADE AVENUE
SUITE 6F
FORT LEE, NJ 07024

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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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	:
Todd Piper	:
Serial No.: 10/764,899	: SUSPENSION OF ACTION
Filed: January 26, 2004	:
Attorney Docket No.: P06270US01 PHI 1363	:

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 C. Elliott

George Elliott
Director, Technology Center 1600

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PIONEER HI-BRED INTERNATIONAL INC.
7250 NW 62ND AVENUE
PO BOX 552
JOHNSTON IA 50131-0552

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AUG 0 2 2007
OFFICE OF PETITIONS

In re Application of :
Todd Elliot Piper :
Application No. 10/764,899 : ON PETITION
Filed: January 26, 2004 :
Attorney Docket No. P06270US01 - PHI 1363 :

This is in response to the "Petition to Withdraw Terminal Disclaimer under 37 CFR 1.182", filed May 1, 2007.

The petition is **granted**.

Examiner Ashwin Mehta has determined that the terminal disclaimer to United States Patent No. 6,232,535 filed January 29, 2007, can be withdrawn. The terminal disclaimer is withdrawn, accordingly.

The fee for the instant petition is $400.00. The amount of $130.00 was received previously. Accordingly, deposit account 26-0084 will be charged an additional $270.00 for the petition fee.

The application is being directed to Technology Center 1600, GAU 1638 for further processing including entry in the record of the withdrawal of the terminal disclaimer to United States Patent No. 6,232,535 filed January 29, 2007.

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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MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

In re Application of	:
Gerhard P. Weber	:
Serial No.: 10/764,900	: SUSPENSION OF ACTION
Filed: January 26, 2004	:
Attorney Docket No.: P06265US01 - PHI 1371	:

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 C. Elliott

George Elliott
Director, Technology Center 1600

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ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

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OFFICE OF PETITIONS

In re Application of :
Gerhard P. Weber :
Application No. 10/764,900 : ON PETITION
Filed: January 26, 2004 :
Attorney Docket No: **P06265US01 - PHI 1371**

This is a decision on the petition filed May 1, 2007 under 37 CFR 1.182, for withdrawal of a terminal disclaimer filed January 8, 2007.

The petition is **GRANTED**.

The examiner responsible for the above-identified application has indicated that the terminal disclaimer filed January 8, 2007 for US 6232535 is not required, and is not needed even with the current claim amendments.

Accordingly, on petition the terminal disclaimer is withdrawn.

Additionally, petitioner is advised that the fee for a petition under 37 CFR 1.182 is set at $400.00, not $130.00 as was submitted with the petition. In view thereof, per the authorization noted in the petition, deposit account no. 26-0084 has been charged in the amount of $270.00 to make up the difference between that which was paid and that which was due.

This matter is being referred to Technology Center 1638 to correct the records related to the terminal disclaimer filed January 8, 2007, consistent with this decision.

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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P.O. Box 1450
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James B. Conte
BARNES & THORNBURG.
P. O. Box 2798
Chicago IL 60690-2798

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OFFICE OF PETITIONS

In re Application of	:	
Vicars, et al.	:	ON PETITION
Application No. 10/764,902	:	
Filed: January 26, 2004	:	
Attorney Docket No. 926512-95493	:	

This is a decision on the petition under 37 CFR 1.181, filed July 11, 2005 (certificate of mailing date July 7, 2005), requesting withdrawal of the holding of abandonment.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely submit a reply to the December 1, 2004 non-final Office action, which set an extendable three month period for reply. Accordingly, the above-identified application became abandoned on March 2, 2005. A Notice of Abandonment was mailed on June 10, 2005.

An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in

practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the December 1, 2004 non-final Office action, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because practitioner appears not to be practicing at the correspondence address of record. The address listed at the bottom of the petition is:

James B. Conte
BARNES & THORNBURG
P.O. Box 2786
Chicago, IL 60690-2786

The December 1, 2004 non-final Office action was properly mailed to correspondence of record, which is:

James B. Conte
BARNES & THORNBURG.
P. O. Box 2798
Chicago IL 60690-2798

The fact that practitioner did not receive the December 1, 2004 non-final Office action at P.O. Box 2786 does not warrant withdrawal of the holding of abandonment, as P.O. Box 27**86** <u>is not</u> part of the correspondence address of record. P.O. Box 27**98** <u>is</u> part of the correspondence address of record. An applicant is required to keep the Office informed of correspondence address changes. Any delay in prosecution due to a failure to inform the office of a correspondence address change is delay attributed to the applicant.

Petitioners may wish to file a petition to revive under 37 CFR 1.137(b) – the unintentional standard. Since petitioners allege non-receipt of the December 1, 2004 non-final Office action, a copy is enclosed. A necessary component of a petition to revive under 37 CFR 1.137(b) is a reply to the December 1, 2004 non-final Office action.

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: copy of December 1, 2004 non-final Office action

cc: JAMES B. CONTE
BARNES & THORNBURG
P.O. BOX 2786
CHICAGO, IL 60690-2786

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BARNES & THORNBURG, LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

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OFFICE OF PETITIONS

In re Application of :
Vicars :
Application No. 10/764,902 : ON PETITION
Filed: January 26, 2004 :
Attorney Docket No. 926512-95493 :
For: SUCTION VALVE

This is a decision on the reconsideration petition under 37 CFR 1.181, filed December 13, 2005, requesting withdrawal of the holding of abandonment. In the alternative, petitioners request revival under 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply to the December 1, 2004 non-final Office action, which set an extendable three month period for reply. Accordingly, the above-identified application became abandoned on March 2, 2005. A Notice of Abandonment was mailed on June 10, 2005.

As stated in the prior decision, the December 1, 2004 non-final Office action was properly mailed to correspondence of record. The fact that practitioner did not receive the December 1, 2004 non-final Office action at P.O. Box 2786 does not warrant withdrawal of the holding of abandonment, as P.O. Box 27**86** was not part of the correspondence address of record. P.O. Box 27**98** was part of the correspondence address of record. An applicant is required to keep the Office informed of its current correspondence address. Any delay in prosecution due to a failure to inform the office of a correspondence address change is delay (not unavoidable) attributed to the applicant. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

Through good luck, petitioner received two separate Office Notices addressed to P.O. Box 2798. Therefore, petitioner was on notice that the Office had an incorrect (in petitioner's eyes) correspondence address on record. Petitioner should have corrected the record. It is an **applicant's** responsibility to specify an address to which Office will send correspondence 37 CFR 1.33(a) The fact that one mailing was returned to the Office does not shift the burden of

responsibility for establishing and verifying an applicant's correspondence address from the applicant to the Office.

The reconsideration petition under 37 CFR 1.181 is dismissed.

Regarding the petition under 37 CFR 1.137(b), applicant has submitted a terminal disclaimer in reply to the December 1, 2004 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 1, 2004 non-final Office action, and authorization to charge required fees.[1] Deposit account no. 12-0913 will be charged the $1,500.00 Rule 137(b) petition fee and the $130.00 statutory disclaimer fee.

The petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision the application will be forwarded to Technology Center 3753 for consideration of the reply to the December 1, 2004 non-final Office action, filed on December 13, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The statement of unintentional delay presented in the petition does not comply with the current rule. 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" be submitted. However, the statement presented will be accepted and construed as meaning 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 this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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HUSCH BLACKWELL SANDERS LLP WELSH & KATZ
120 SOUTH RIVERSIDE PLAZA, FLOOR 22
CHICAGO IL 60606-3912

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OFFICE OF PETITIONS

In re Patent No. 7,172,175	:	
Issue Date: February 6, 2007	:	
Application No. 10/764,902	:	ON PETITION
Filed: January 26, 2004	:	
Attorney Docket No. 4446-103230-CON	:	

This is a decision on the petition, filed August 11, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 10/114,356, filed April 3, 2002, by way of a Certificate of Correction.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §§ 1.78(a)(3), petitioner has submitted a Certificate of Correction in order to correct the specification following the title to include a reference to the prior-filed application.

The current procedure where a proper claim for priority under 37 CFR §§ 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does properly appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3).[1] In the instant case, the Office noted the claim for priority of prior-filed Application No. 10/114,356, filed April 3, 2002, in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt mailed May 4, 2004.

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1,410.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Further, in the above-identified patent, the Office has issued a Certificate of Correction mailed September 8, 2009.

Any questions concerning this decision on petition may be directed to Joan Olszewski at 571-272-7751. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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OFFICE OF PETITIONS

In re Application of
Peter Maier-Laxhuber, et al.
Application No. 10/764,926
Filed: January 26, 2004
Attorney Docket No. 119-29

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 7, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before June 21, 2006. A Notice of Abandonment was mailed on October 24, 2006. In response, on November 7, 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 $700 issue fee and the $300 publication fee; (2) the petition fee of $750; and (3) the required statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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TROJAN LAW OFFICES
9250 WILSHIRE BLVD.
SUITE 325
BEVERLY HILLS, CA 90212

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OFFICE OF PETITIONS

In re Application of	:	
David Tsai	:	
Application No. 10/764,945	:	DECISION GRANTING PETITION
Filed: January 26, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 03-10-2151	:	

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 Notice To File Missing Parts Of Nonprovisional Application mailed September 22, 2004, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 23, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DONALD J. ERSLER
ATTORNEY AT LAW
725 GARVENS AVE.
BROOKFIELD, WI 53005

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OFFICE OF PETITIONS

In re Application of
John Robert Goepfert
Application No. 10/764,970
Filed: January 26, 2004
Attorney Docket No. 1453

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 27, 2007, January 30, 2007 and April 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 Donald J. Ersler 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 correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed May 30, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: JOHN ROBERT GOEPFERT
1621 NORTH WASHINGTON STREET
JANESVILLE, WI 53548

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/764,970	01/26/2004	John Robert Goepfert	1453

CONFIRMATION NO. 9307

OC000000024228678

Donald J. Ersler
Attorney at Law
725 Garvens Ave.
Brookfield,, WI 53005

Date Mailed: 06/05/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/27/2007.

- 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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APR 16 2009

Sonnenschein, Nath & Rosenthal, LLP
P.O. Box 061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

In re Application of:
Curt Seymour et al.
Appl. No. 10/764,977

Filed: January 26, 2004
For: CUSTOMIZABLE STORAGE AND DISPLAY SYSTEMS

ON PETITION TO WITHDRAW THE FINAL OFFICE ACTION UNDER 37 CFR 1.181

This is a decision on applicant's petition under 37 CFR 1.181 filed on January 16, 2009 to withdraw the premature FINAL Office Action mailed on November 18, 2008 (It is noted that applicant incorrectly listed the date as October 21, 2008).

The Petition is **DENIED.**

Reference is made to the interview summary mailed April 6, 2009. During the interview between SPE Dickson and the attorney of record, Mr. Rehm, it was determined that the final rejection was proper and that the restriction requirement was proper.

In the petition, applicant alleges that the final rejection mailed November 18, 2008 is premature because the examiner has taken action that is not authorized by any legal authority. In this case, the applicant states that the "examiner ignored Applicant's election of claims and chose what claims would be examined. Consequently, applicant's elected claims remain unexamined." Further, applicant argues that the examiner should have deemed applicant's response to the restriction requirement as "non-responsive" and forced applicant to choose.

The examiner did not ignore the claims that the applicant elected, and in accordance with MPEP 821, the examiner correctly held claims 1-7 as not being directed to the elected subject matter and properly stated that they were withdrawn from further consideration by the examiner in accordance with 37 CFR 1.142(b). Further, the examiner clearly set forth in the Final Office action mailed November 18, 2008 the reasons why the claims withdrawn from consideration are not readable on the elected invention. Applicant may traverse the requirement pursuant to 37 CFR 1.143. If a final

requirement for restriction is made by the examiner, applicant may file a petition under 37 CFR 1.144 or 37 CFR 1.181 for review of the restriction requirement.

The examiner did not err in making the Final rejection. Although the applicant mistakenly indicated that claims1-7 read on the elected invention, the response to the restriction requirement should not have been made "non-responsive" as argued by the applicant, as the applicant properly responded to the Restriction Requirement. As set forth above, the examiner ultimately clarified the record as to why claims 1-7 are not directed to the elected subject matter.

In light of the interview and upon review of the application and explanation set forth by the examiner in the Final Rejection mailed November 18, 2008, it is concluded that claims 1-7 and 12 were properly withdrawn from further consideration as being drawn to nonelected species and invention

Any questions regarding this decision should be directed to SPE Paul N. Dickson at 571-272-6669.

Frederick Schmidt
Director
Technology Center 3600
(571) 272-5150

PD/SNM: 3/27/09

SM

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OFFICE OF PETITIONS

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :
BUHLER, Sigrid et al. :
Application No. 10/764,989 : DECISION ON PETITION
Filed: January 26, 2004 : TO WITHDRAW
Attorney Docket No. **272748US0X** : 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 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 Jeffrey Wilson, the sole attorney of record. Jeffrey Wilson has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Sigrid Buhler at the address indicated below. There is an outstanding Office action mailed November 26, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **SIGRID BUHLER**
DIESELSTR. 1B
WALDKRAIBURG D-84478
DE

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Mark A. Litman and Associates, P.A.
York Business Center
Suite 205
3209 w. 76th Street
Edina MN 55435

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OFFICE OF PETITIONS

In re Application of	:	
Smith et al.	:	
Application Number: 10/764995	:	
Filing or 371(c) Date: 01/26/2004	:	ON PETITION
Attorney Docket Number: PA0959.ap.US	:	

This is a decision on the Petition Under 37 C.F.R. § 1.182 to Remove Terminal Disclaimer, filed August 4, 2008.

The petition is **dismissed**.

Applicant files the present petition and requests withdrawal of the Terminal Disclaimer ("TD"), and in support of the petition, states that Applicant's have decided to cancel claim 75, and all claims dependent therefrom, in the copending application, U.S. Application 10/910,713. "This action will remove the provisional rejection and obviates the need for the Terminal Disclaimer." Petition at p.3.

The Examiner has reviewed the request and provides that the claims in U.S. Application 10/910,713 were not canceled, but withdrawn. The TD therefore remains proper, and the Examiner has not agreed to allow withdrawal of the Terminal Disclaimer.

The application is being referred to Technology Center Art Unit 3714 for processing of the Appeal Brief, filed September 26, 2008, and for continued examination in the normal course of business.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Director for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding the Terminal Disclaimer should be directed to the Examiner. Telephone inquiries concerning this Decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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Patent Department – 53051
KILPATRICK STOCKTON LLP
1001 West Fourth Street
Winston-Salem, NC 27101

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Technology Center 2100

In re Application of:
Craig Nevill-Manning et al.
Application No. 10/765,014
Filed: January 26, 2004
For: METHODS AND SYSTEMS FOR OUTPUT OF SEARCH RESULTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 10, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100

cc: Sabra-Anne R. Truesdale
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Application of
Craig Neville-Manning et al.
Application No. 10/765,014
Filed: January 26, 2004
Attorney Docket No: **24207-10065**

DECISION GRANTING PETITION

This is a decision on the petition, filed February 14, 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 November 17, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is October 18, 2007 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $1500.00 has been applied to the finance records for this application.

This matter is being referred to Technology Center 2167 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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.
10/765,014	01/26/2004	Craig Nevill-Manning	24207-10065

CONFIRMATION NO. 1277

62296
GOOGLE / FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA ST.
MOUNTAIN VIEW, CA 94041

Date Mailed: 07/09/2007

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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MOUNTAIN VIEW, CA 94041

Mail Date: 04/21/2010

Applicant	: Craig Nevill-Manning	: DECISION ON REQUEST FOR
Patent Number	: 7647300	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/765,014	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **634** 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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DREISS, FUHLENDORF, STEIMLE & BECKER
PATENTANWALTE
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STUTTGART D-700-32 DE GERMANY

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In re Application of	:	
HESTERMAN, Ebe	:	
Application No. 10765,038	:	DECISION ON PETITION
Filed: January 28, 2004	:	TO WITHDRAW
Attorney Docket No. **3962 0160**	:	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 09, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

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PATENTANWALTE
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STUTTGART D-700-32 DE GERMANY

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OFFICE OF PETITIONS

In re Application of :

HESTERMANN, Ebe :
Application No. 10/765,038 : DECISION ON PETITION
Filed: January 28, 2004 : TO WITHDRAW
Attorney Docket No. **3962 0160** : FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 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. 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 Vincent, the sole attorney of record. Paul Vincent has been withdrawn as attorneys or agents of record. Applicant is reminded that there is no attorney of record at this time.

In view of the present decision, Paul Vincent 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). All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest under 37 C.F.R. §3.71 at the first copied address below until otherwise properly notified by the applicant

There is an outstanding Office action mailed January 24, 2008, that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **EBE HESTERMAN**
CURIESTRATT 7
NL-1171 BG BADHOEVEDORP
THE NETHERLANDS

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1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of
FREEMAN, et al.
Application No. 10/765,044
Filed: January 28, 2004
Attorney Docket No. 559442000104

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 29, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "application is being transferred to another attorney", does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NIXON PEABODY LLP**
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 20004

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C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :
FREEMAN, et al. :
Application No. 10/7650,044 : DECISION ON PETITION
Filed: January 28, 2004 : TO WITHDRAW
Attorney Docket No. 559442000104 : FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2007.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Adam Keser on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: MICHAEL J. FREEMAN
1270 AVENUE OF THE AMERICAS, SUITE 2401
ROCKEFELLER CENTER
NEW YORK, NY 10020

cc: MARC KAUFMAN, ESQ.
NIXON PEABODY LLP
401 9TH STREET NW, SUITE 900
WASHINTON, DC 20004

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GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
NOMURA et al.	:	
Application No. 10/765,048	:	LETTER REGARDING
Filed: January 28, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 04853.0111	:	

This is in response to the "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR REVIEW OF CALCULATION" filed September 24, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **532 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 1, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 567 days. On September 24, 2008, applicants submitted the instant comment. Applicants disclose that they believe that the determination of patent term adjustment of 567 days is incorrect and should be set at 561 days.

Applicants assert that they are entitled to an additional patent term adjustment of 11 days pursuant to 37 CFR 1.703(a)(2).[1] Applicants stated that the Office mailed a nonfinal Office action on January 29, 2007, which was subsequently withdrawn in favor of the corrected nonfinal Office action of March 27, 2007. Applicants contend that the Office should have used the March 27, 2007 mailing date of the corrected nonfinal Office action for the purpose of calculating any adjustment of patent term pursuant to 37 CFR 1.703(a)(2). Applicants assert they filed a Response to Restriction Requirement on November 16, 2006. However, the Office did not respond to the reply until the mailing of the corrected nonfinal Office action on March 27, 2007, four months and 11 days later. Thus, applicants contend that an additional period of adjustment of 11 days should be entered.

Applicants' argument has been considered. However, in light of the application history, it has been determined that the additional period of adjustment of 11 days for Office delay pursuant to 37 CFR 1.702(a)(2) is not merited. It is undisputed that the Office mailed a nonfinal Office action on January 29, 2007, within four months of the reply of November 16, 2006. On March 27, 2007, the Office mailed a corrected nonfinal Office action, which withdrew the nonfinal Office action of January 29, 2007, and restarted the period for reply.

The subsequent mailing of another Office action under 35 U.S.C. 132 does not alter the date used in calculation of the period of adjustment. Pursuant to 35 U.S.C. 154(b)(1)(A)(ii),[2] applicants

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[1] 37 CFR 1.703 provides, in pertinent part, that:

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first[.]

[2] 35 U.S.C. 154(b)(1)(A) provides that:

— Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to—

are only entitled to day-to-day restoration of term lost as a result of delay created by the Office, after the first four months of pendency of the application before the Office, to the extent that the Office failed to make an objection or argument under 35 U.S.C. 132 until January 29, 2007. The fact that the Office later withdrew the nonfinal Office action does not negate the fact that the Office took action within the meaning of 37 CFR 1.702(a)(2)[3] on January 29, 2007. Thus, it is correct for the Office to use the date of January 29, 2007, in calculating any period of adjustment due to the examination delay in responding to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 54366 (September 18, 2000). Accordingly, a period of adjustment of 11 days pursuant to 37 CFR 1.702(a)(2) is not warranted and will not be entered.

Applicants further disclose that the filing of a Supplemental Information Disclosure Statement (Supplemental IDS) could be a basis for a period of reduction of 17 days. A review of the application history reveals that applicants submitted the Supplemental IDS on June 20, 2008, after filing a reply to the final Office action on May 16, 2008. The record does not support a conclusion that the examiner expressly requested the filing of the Supplemental IDS. Further, a review of the Supplemental IDS, filed June 20, 2008, reveals that applicants

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(ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken[.]

[3] 37 CFR 1.702 provides:

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken[.]

did not include a statement under 37 CFR 1.704(d).[4] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment of the term of the patent should be reduced pursuant to 37 CFR 1.704(c)(8)[5] by 35 days (not 17 days), counting the number of days beginning on the day after the date the initial reply in the form of an amendment was filed, May 17, 2008, and ending on the date that the Supplemental IDS was filed, June 20, 2008.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **532 days**.

As this letter was submitted to advise 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.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the

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[4] 37 CFR 1.704(d)provides:

A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

[5] 37 CFR 1.704(c) provides that the following circumstance constitutes a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(8) Submission of a supplemental reply or other paper, other than 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[.]

Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

PTA Calculations for Application: 10/765048

Application Filing Date:	01/28/2004	PTO Delay (PTO):	567
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	532
PTO Delay Adjustment:	-35		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
75	03/23/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		35	
60	07/01/2008	MAIL NOTICE OF ALLOWANCE			
59	06/27/2008	ISSUE REVISION COMPLETED			
58	06/27/2008	DOCUMENT VERIFICATION			
57	06/27/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	06/27/2008	EXAMINER'S AMENDMENT COMMUNICATION			
55	06/27/2008	NOTICE OF ALLOWABILITY			
51	06/20/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	06/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	06/03/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	06/03/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	05/28/2008	DATE FORWARDED TO EXAMINER			
46	05/16/2008	AMENDMENT AFTER FINAL REJECTION			
45	03/17/2008	MAIL FINAL REJECTION (PTOL - 326)			
44	03/11/2008	FINAL REJECTION			
43	01/02/2008	DATE FORWARDED TO EXAMINER			
42	12/17/2007	RESPONSE AFTER NON-FINAL ACTION			
41	09/17/2007	MAIL NON-FINAL REJECTION			
40	09/13/2007	NON-FINAL REJECTION			
38	06/27/2007	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
37	07/10/2007	DATE FORWARDED TO EXAMINER			
36	06/27/2007	RESPONSE AFTER NON-FINAL ACTION			

35	03/27/2007	MAIL NON-FINAL REJECTION			
34	03/19/2007	NON-FINAL REJECTION			
33	03/19/2007	MAIL NOTICE OF WITHDRAWN ACTION			
32	03/19/2007	LETTER WITHDRAWING / VACATING OFFICE ACTION			
31	01/29/2007	MAIL NON-FINAL REJECTION			
30	01/22/2007	NON-FINAL REJECTION			
29	08/19/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	07/20/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	12/05/2006	DATE FORWARDED TO EXAMINER			
26	11/16/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
25	10/16/2006	MAIL RESTRICTION REQUIREMENT	567		-1
24	01/20/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
23	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
22	09/09/2004	CASE DOCKETED TO EXAMINER IN GAU			
21	09/08/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	07/20/2004	REFERENCE CAPTURE ON IDS			
19.7	08/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	08/19/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	07/20/2004	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
17.7	07/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	07/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	01/28/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
15	01/28/2004	PRELIMINARY AMENDMENT			
14	01/28/2004	NEW OR ADDITIONAL DRAWING FILED			
12	08/07/2004	APPLICATION RETURN FROM OIPE			
11	08/07/2004	APPLICATION RETURN TO OIPE			
10	08/07/2004	APPLICATION DISPATCHED FROM OIPE			
9	08/09/2004	APPLICATION IS NOW COMPLETE			
8	07/20/2004	ADDITIONAL APPLICATION FILING FEES			
		A STATEMENT BY ONE OR MORE INVENTORS			

7	07/20/2004	SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	06/14/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	03/23/2004	CLEARED BY L&R (LARS)			
4	03/11/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	03/11/2004	CASE CLASSIFIED BY OIPE			
2	03/04/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/28/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of	:	
MOTARD	:	
Application No.: 10/765,082	:	DECISION ON PETITION
Filing Date: January 28, 2004	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 12997-25US RM/JR/as	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowability mailed October 17, 2005, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on January 18, 2006.

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; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowability is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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APR 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of KUROKAWA et al	:	
Application No.: 10/765,098	:	DECISION ON PETITION
Filing Date: January 28, 2004	:	FOR ACCELERATED
For: STORAGE SYSTEM WITH A DATA	:	EXAMINATION UNDER
SORT FUNCTION	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed January 26, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A

search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

With respect to requirement (E), the petition does not contain a detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). The petition adequately discusses the distinction between independent claim 1 and references US 2004/0039869, US 2003/0061407, US 2003/0163457, US 2002/0065793, US 6,424,970, and US 2004/0098543. However, the single sentence description of the remaining references is insufficient. Furthermore, the petition contains only a general statement that none of the remaining references disclose essentially all of the limitations of independent claim 1. A general statement that the entirety of an independent claim is not disclosed by the prior art does not provide a sufficient distinction between the claimed invention and each of the cited references. Moreover, the petition does not provide any discussion regarding independent claim 10.

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DISMISSED**.

Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

The application will remain in the status of a new application awaiting action in its regular turn.

Pinchus M. Laufer

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church VA 22042

In re Application of: KUROKAWA, et al.
Application No. 10/765,098
Filed: January 28, 2004
For: STORAGE SYSTEM WITH A DATA SORT FUNCTION

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the renewed petition filed 11 May 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 26 January 2005. The petition was dismissed for failure to provide a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicants' submission filed 11 May 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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TECHNOLOGY CENTER 2600

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of :
NISHIYAMA, SHINICHI, et al. :
Application No. 10/765,108 :
Filed: January 28, 2004 :
For: **CASING FOR STORAGE APPARATUS AND STORAGE APPARATUS** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed March 7, 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
571-272-2986

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MATTINGLY, STANGER, MALUR & BRUNDIDGE
1800 DIAGONAL ROAD, SUITE 370
ALEXANDRIA, VIRGINIA 22314

In re Application of: HIRAKO
Application No. 10/765,109
Filed: January 28, 2004
For: STORAGE DEVICE CONTROL APPARATUS AND A METHOD OF CONTROLLING THE SAME

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed June 22, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **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 June 22, 2005 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 document (US 2004/0205294 Nakayama et al.) since applicant has deemed it as one of the most closely related references. Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. Applicant cites the Nakayama et al. reference, without a description or discussion, which is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (e).

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 7/18/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

AWK

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Technology Center 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: HIRAKO
Application No. 10/765,109
Filed: January 28, 2004
For: STORAGE DEVICE CONTROL APPARATUS AND A METHOD OF CONTROLLING THE SAME

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the renewed petition filed 22 August 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 22 June 2005. The petition was dismissed for failure to provide a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicants' submission filed 22 August 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church VA 22042

In re Application of: Kasako
Application No. 10/765,128
Filed: January 28, 2004
For: DATA PROCESSING SYSTEM HAVING A PLURALITY OF STORAGE SYSTEMS

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 26 January 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

MPEP §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

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REED SMITH LLP
3110 FAIRVIEW PARK DRIVE
SUITE 1400
FALLS CHURCH, VA 22042

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MAY 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Naohisa Kasako :
Application No. 10/765,128 : ON PETITION
Filed: January 28, 2004 :
Attorney Docket No. WILL.0001

This is a decision on the petition filed, April 25, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 11, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2186 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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OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT, PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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In re Application of :
Yoshihisa Iwata et al :
Application No. 10/765,131 : DECISION GRANTING PETITION
Filed: January 28, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 248145US2S :

This is a decision on the petition, filed January 3, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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).*

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Melanie L. McCollum
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

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OFFICE OF PETITIONS

In re Application of

Guerino G. Sacripante et al.
Application No. 10/765,146
Filed: January 28, 2003
Attorney Docket No. 118411

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 July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie L. McCollum: (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, Melanie L. McCollum 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 correspondence address of record remains unchanged.

The attorneys and/or agents associated with Oliff & Berridge remains of record.

There is no outstanding Office action at this time.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

for David Bucci
Petitions Examiner
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of
SONE, MASAHIRO
Application No. 10/765,165
Filed: January 28, 2004
For: **STORAGE CONTROL DEVICE AND CONTROL METHOD THEREFOR**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed February 23, 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
571-272-2986

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Robert E. Krebs
Thelen Reid & Priest, LLP
P.O. Box 640640
San Jose, CA 95164-0640

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OFFICE OF PETITIONS

In re Application of	:	
Ashok B. Nayak et al.	:	
Application No. 10/765,184	:	DECISION ON PETITION
Filed: January 28, 2004	:	TO WITHDRAW
Attorney Docket No. 036263-000050	:	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 24, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Mark Spolyar, Esq.**
Spoylar Technology Law Group
2200 Cesar Chavez Street
San Francisco, CA 94124

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100526

DATE : October 27, 2009

TO SPE OF : ART UNIT 2463

SUBJECT : Request for Certificate of Correction on Patent No.: 7505481

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:

/Derrick W Ferris/
Supervisory Patent Examiner, Art Unit 2463

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(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
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ALEXANDRIA VA 22313-1404

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OFFICE OF PETITIONS

In re Application of	:	
Wood et al.	:	
Application No. 10/765,215	:	ON PETITION
Filed: 28 January, 2004	:	
Atty Docket No. 034158-047	:	

This is a decision on the petition filed on 27 September, 2005, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

The application was held abandoned on 25 May, 2005, for failure to timely respond to the non-final Office action mailed on 24 February, 2005, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 26 September, 2005.

Petitioners assert that the Office action mailed on 24 February, 2005, was never received. A review of the record indicates no irregularity in the mailing of the Office action, and 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. The showing required to establish the failure to receive an Office action 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.[1]

[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have submitted a statement from the practitioner, Matthew L. Schneider, attesting to the fact that a review of the docket records indicates that the Office correspondence in question was not received. Petitioners have also included a copy of a docket report.

A review of the Official file reveals that on 5 August, 2004, a declaration in compliance with 37 CFR 1.63 was filed, stating that all correspondence was to be addressed to Customer No. 21839, Burns, Doane, Swecker & Mathis, LLP, P.O. Box 1404, Alexandria, VA 22313-1404. However, the Office action mailed on 24 February, 2005, was not mailed to the address specified in the declaration and change of correspondence address filed on 5 August, 2004. As such, the showing of record is that the Office action was not mailed to the current correspondence address.

The holding of abandonment is withdrawn, the Notice of Abandonment mailed on 26 September, 2005, is vacated.

The correspondence address has now been changed in Office records.

The file is being referred to Technology Center 3700 for the remailing of the Office action originally mailed on 24 February, 2005.

Telephone inquiries concerning the remailing of the Notices should be referred to the Technology Center at 703-272-3700. All other inquiries regarding this decision may be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

03/19/04

David A. Hall
4350 La Jolla Village Drive
Suite 700
San Diego, CA 92122-1246

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/765223 received on 2/20/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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OFFICE OF PETITIONS

ANGUS C FOX, III
4093 N IMPERIAL WAY
PROVO UT 84604-5386

In re Application of	:	
Joseph W. Carlson	:	
Application No. 10/765,234	:	ON PETITION
Filed: January 26, 2004	:	
Attorney Docket No. JWC03-01	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 28, 2008.

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed October 9, 2007. This Notice set a statutory period for reply of three (3)) months. No issue fee having been received, the application became abandoned on January 10, 2008. A Notice of Abandonment was mailed on January 28, 2008.

With the instant petition, petitioner has submitted a copy of a docket report showing all of his replies docketed from September 8, 2007 to January 31, 2008. An entry for the instant application is absent, supporting the conclusion that the Notice of Allowance was not received.

In view thereof, the holding of abandonment is **WITHDRAWN**.

The application is being forwarded to Group Art Unit 2837 for re-mailing of the October 2, 2007 Notice of Allowance and Notice of Allowability, 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

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Alexandria, VA 22313-1450
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ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE CA 92614-2558

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OFFICE OF PETITIONS

In re Application of

Pappin, et al.

Application No. 10/765,264

Filed: January 27, 2004

Attorney Docket No. BP0207-US2

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed March 6, 2009.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on September 13, 2008, after it was believed that a proper response was received to the non-final Office action mailed June 12, 2008, which set a shortened statutory period for reply of three months from its mailing date. A Notice of Abandonment was mailed January 9, 2009.

Petitioner maintains that a proper and timely response to the non-final Office action was deposited with the United States Postal Service, first class mail on December 12, 2008. The response was in the form of an amendment. As evidence of the same, petitioner provides a copy of the amendment and a request for an extension of time within the third month containing a certificate of mailing dated December 12, 2008.

Petitioner's argument has been considered and is persuasive. Section 711.03(c) of the MPEP provides, in pertinent part, that:

> Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into

PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

A review of the copy of the amendment and request for extension of time reveals that it contains a certificate of mailing dated December 12, 2008, that is signed by Kurt T. Mulville who also signed the petition document. Petitioner properly used the protections offered by 37 CFR 1.8 and is, therefore, entitled to assert that the response mailed December 12, 2 008, is timely by virtue of the certificate of mailing dated December 12, 2008, contained thereon. The petition is granted, accordingly.

Deposit account 15-0665 will be charged $1, 110.00 for the extension of time within the third month.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded to Technology Center GAU 1797 for further processing including consideration of the amendment filed March 6, 2009.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: SHIROGANE
Application No. 10/765,289
Filed: January 26, 2004
For: STORAGE APPARATUS AND ACCESS MANAGEMENT METHOD THEREFOR

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 01 March 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 01 March 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to point out how each reference defines over each independent claim. Some of the limitations purported to distinguish independent claims 10, 17, and 20 from the references are not in these claims. Some examples are set forth below.
-Claim 10 fails to specify that the external apparatus "includes second information on identification of the *host computer*" (emphasis added).
-Claim 17 fails to specify "a frame of a login request transmitted by the host computer".
-Claim 20 fails to specify that the first apparatus "includes *second* information on identification of the *host computer*" (emphasis added).
Petitioner should ensure that the above discussion is directed to how the language of **each** of the independent claims is **specifically** distinguishable and patentable from **each** of the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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Technology Center 2100

In re Application of: SHIROGANE
Application No. 10/765,289
Filed: January 26, 2004
For: STORAGE APPARATUS AND ACCESS MANAGEMENT METHOD THEREFOR

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the renewed petition filed 05 July 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 01 March 2005. The petition was dismissed for failure to provide a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicants' submission filed 05 July 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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 OFFICES OF THOMAS J. BRINDISI
20 28TH PLACE, SUITE B
VENICE CA 90291

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DEC 21 2005
OFFICE OF PETITIONS

In re Application of	:	
Edward H. Kilduff et al	:	
Application No. 10/765,294	:	ON PETITION
Filed: January 27, 2004	:	
Attorney Docket No. DLP/001	:	

This is a decision on the petition, filed December 15, 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 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2856 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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Paper No. _____

Date : December 21, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Edward H. Kilduff et al
Application No. :10/765,294
Filed :January 27, 2004

The above-identified application has been assigned Patent No. 6,981,412 and an issue date of January 3, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of January 3, 2006:

"All reference to Patent No. 6,981,412 to Edward H. Kilduff et al of New York for ADUSTABLE MEASURING SCOOP appearing in the Official Gazette of January 3, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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DCM

In re Application of	:	
Abelardo Caraballo	:	
Serial Number: 10/765,333	:	PETITION UNDER
Filed: January 28, 2004	:	M.P.E.P.708.02 IV
For: POOL CLEANER CONTROL DEVICE	:	

This is in response to the petition filed January 28, 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

Sanchelima and Associates, P.A.
Jesus Sanchelima, Esq.
235 S.W. Le Jeune Rd.
Miami FL 33134

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OFFICE OF PETITIONS

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

In re Application of
Vlahov et al.
Application No. 10/765,336
Filed: January 27, 2004
Attorney Docket No.20150-74359

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B) filed June 26, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand fifty-five (1,055) days, not four hundred seventy-eight (478) 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 cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) 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).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The 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 matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Kery A. Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

Date Calculator Result

From 01/27/2007 to 08/26/2008 is 577 days.

New calculation

BARNES & THORNBURG LLP

11 South Meridian Street
Indianapolis, Indiana 46204
(317) 236-1313
(317) 231-7433 Fax

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No.:	23643	FILED ELECTRONICALLY: June 26, 2009
Group:	1618	
Confirmation No.:	9879	
Application No.:	10/765,336	
Patent No.:	Unknown	
Invention:	VITAMIN RECEPTOR BINDING DRUG DELIVERY CONJUGATES	
Inventor:	Iontcho R. Vlahov	
Filed:	January 27, 2004	
Attorney Docket:	20150-74359	
Examiner:	Dameron Levest Jones	

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)

Mail Stop Patent Extension
Director for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

It is respectfully requested that the Office reconsider the Patent Term Adjustment determined in the above-identified U.S. Application Serial No. 10/765,336, and revise the Patent Term Adjustment to **1055 days,** which is believed to be the correctly calculated Patent Term Adjustment.

The revised Patent Term Adjustment was determined according to the grounds for adjustment under 37 C.F.R. § 1.702(a) and 37 C.F.R. § 1.702(b) and was calculated according to the periods of adjustment under 37 C.F.R. § 1.703(a) and 37 C.F.R. § 1.703(b). Furthermore, the revised Patent Term Adjustment is established according to the recent decision by the U.S. Court for the District of Columbia in *Wyeth v. Dudas*, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). A summary of the revised Patent Term Adjustment is below.

	Relevant Dates	**Period of Adjustment**
Examination Delay under 37 C.F.R. § 1.702(a)	*37 C.F.R. § 1.703(a)(1)* Filing date of patent application: January 27, 2004 Fourteen months after filing date of patent application: March 27, 2005 First Action mailed by USPTO: January 17, 2007	Difference for which patentee should receive credit: + 661 days,
Examination Delay under 37 C.F.R. § 1.702(b)	*37 C.F.R. § 1.703(b)* Filing date of patent application: January 27, 2004 Three years after filing date of patent application: January 27, 2007 Date of filing an RCE by Applicant: August 26, 2008	Difference for which patentee should receive credit: + 577 days,
Circumstances under 37 C.F.R. § 1.704(b)	*37 C.F.R. § 1.704(b)* Request for a three-month Extension of Time Office Action mailed by USPTO: June 29, 2007 Three-month due date: September 29, 2007 Response received by USPTO: December 13, 2007	Difference for which §1.702 period of adjustment should be reduced: -75 days

	Relevant Dates	**Period of Adjustment**
Circumstances under 37 C.F.R. § 1.704(b)	*37 C.F.R. § 1.704(b)* Request for a two-month Extension of Time Office Action mailed by USPTO: March 26, 2008 Three-month due date: June 26, 2008 Response received by USPTO: August 26, 2008	Difference for which §1.702 period of adjustment should be reduced: -61 days
Circumstances under 37 C.F.R. § 1.704(b)	*37 C.F.R. § 1.704(b)* Request for a two-month Extension of Time Office Action mailed by USPTO: October 29, 2008 Three-month due date: January 29, 2009 Response received by USPTO: March 17, 2009	Difference for which §1.702 period of adjustment should be reduced: -47 days
Total PTA as of Date of Filing an RCE by Applicant		**1055 days**

Pursuant to the decision rendered in *Wyeth v. Dudas*, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 C.F.R. § 1.702(a) in addition to any examination delay under 37 C.F.R. § 1.702(b), to the extent that the two periods of delay do not "occur on the same calendar day or days." *Wyeth*, 580 F.Supp.2d at 140, 88 U.S.P.Q.2d at 1540. A copy of *Wyeth* is attached hereto as "Attachment A" for the Office's convenience.

Accordingly, the patentee of the above-identified patent application is entitled to a credit for the sum of 661 days under 37 C.F.R. § 1.702(a) and 577 days under 37 C.F.R. § 1.702(b), for a total of 1238 days, subject to a reduction of 183 days under 37 C.F.R. § 1.704. Thus, Applicants respectfully submit the total Patent Term Adjustment is **1055 days**.

The above-identified patent is not subject to a terminal disclaimer. This Request is timely filed under 37 C.F.R. § 1.705(b) as it is being filed no later than the payment of the issue fee submitted herewith. Applicants respectfully request that, if any additional days accrue due to Patent Office delays pursuant to 37 C.F.R. § 1.702(a), the additional days be added to the total Patent Term Adjustment credit.

Applicants respectfully request revision of the Patent Term Adjustment as set forth above. The Director is hereby authorized to charge the Barnes and Thornburg LLP Deposit Account No. 10-0435 the amount of $200.00 in payment of the reconsideration fee under 37 C.F.R. § 1.18(e), with reference to our Matter No. 20150-74359. The Director is also hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 10-0435, with reference to our Matter No. 20150-74359.

Respectfully submitted,

Bassam S. Nader
Reg. No. 61816
Agent for Applicants

BSN/jrt
Indianapolis, Indiana 46204
317-231-6415

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11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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OFFICE OF PETITIONS

In re Patent No. 7,601,332 :
Vlahov et al. :
Issue Date: October 13, 2009 :
Application No. 10/765,336 : DECISION ON REQUEST FOR
Filed: January 27 2004 : RECONSIDERATION OF
Attorney Dkt. No. 20150-74359 : PATENT TERM ADJUSTMENT
Title: Vitamin Receptor Binding :
Drug Delivery Conjugates :
:

This is in response to the " REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed November 11, 2009. Patentees request that the patent term be adjusted from 478 days to 1055 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On October 13, 2009, the above-identified application matured into US Patent No. 7,601,332 with a patent term adjustment of 478 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 577 days, does not overlap with the 661 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day.

Patentees submit that the total period of adjustment for Office delay is the sum of the period of three-year delay (577 days) and the period of examination delay (661 days) to the extent these periods do not overlap. As such, patentees assert entitlement to a patent term adjustment of 1055 days (661 days *plus* 577 days less 183 days of applicants' delay). Applicants do not dispute the 183 days of reduction due to applicants' delay.

The Office finds that as of the day before the date of the filing of the request for continued examination (RCE) on August 25, 2008, the application was pending three years and 576 days after its filing date (January 27, 2007 to August 25, 2008). An entry of a period of adjustment of 661 days was entered for Office delay. At issue is whether patentee should accrue an additional 576 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 661 days for Office failure to take a certain action within a specified time frame (or examination delay).

Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C.

154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the filing date January 27, 2004 until the day before the filing of the RCE on August 25, 2008. Prior to the issuance of the patent, 661 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

The Office did not delay 661 days and then delay an additional 576 days. Accordingly, 661 days of patent term adjustment for Office delay (not 661 days and 576 days) was properly entered

because the entire period of delay of 576 days attributable to the delay under 37 CFR 1.702(b) overlaps with the 661 days attributable to grounds specified in §§ 1.702(a)(1).

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent was 478 (661-183) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
For Patent Examination Policy

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11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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MAR 10 2010

In re Patent No. 7,601,332	:
Vlahov et al.	: DECISION ON REQUEST FOR
Issue Date: October 13, 2009	: RECONSIDERATION OF
Application No. 10/765,336	: PATENT TERM ADJUSTMENT
Filed: January 27, 2004	: AND NOTICE OF INTENT
Attorney Docket No. 20150-74359	: TO ISSUE CERTIFICATE OF
Title: VITAMIN RECEPTOR BINDING	: CORRECTION
DRUG DELIVERY CONJUGATES	:

This is a decision on the petition filed on February 1, 2010, which is being treated as a petition under 37 CFR 1.181 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand fifty-five (1055) days. The petition was filed within two months of a decision by the Office mailed on December 16, 2009 dismissing applicant request for reconsideration of PTA under 37 CFR 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 one thousand fifty-four (1054) 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 28, 2007 and ends on August 25, 2008, the day before the RCE was filed, and is 576 days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 576, not 577 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand fifty-four (1054)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,601,332 B2

DATED : **October 13, 2009** **DRAFT**

INVENTOR(S) : Vlahov 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 478 days

Delete the phrase "by 478 days" and insert – by 1054 days--

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Iontcho R. Vlahov	: DECISION ON REQUEST FOR
Patent Number	: 7601332	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/765,336	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1054** 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 JC163
MAR 2 9 2004
PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket No. ASC-066

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S):	Westhoff *et al.*		
SERIAL NO.:	10/765,372	GROUP NO.:	Not yet assigned
FILING DATE:	January 27, 2004	EXAMINER:	Not yet assigned
TITLE:	SEMICONDUCTOR STRUCTURES WITH STRUCTURAL HOMOGENEITY		

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Commissioner for Patents
P.O. Box 1540
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. § 1.182

In accordance with the provisions of 37 C.F.R. § 1.182 and M.P.E.P. § 507, Applicants hereby submit the attached formal drawings as replacement drawings. Applicants respectfully request that these replacement drawings be entered in the above-referenced application prior to publication, for inclusion in the patent application publication. Applicants submit that these replacement drawings introduce no new matter.

A petition fee as set forth in 37 C.F.R. § 1.17(h) is submitted herewith.

Date: March 26, 2004
Reg. No. 44,381

Natasha C. Us
Attorney for the Applicants
Testa, Hurwitz, & Thibeault, LLP
125 High Street
Boston, Massachusetts 02110

Tel. No.: (617) 310-8327
Fax No.: (617) 248-7100

VER 9/00
3043146-1
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03/29/2004 JADDO1 00000079 10765372
01 FC:8029 130.00 OP

OIPE JC16
MAR 2 9 2004
PATENT & TRADEMARK OFFICE

FEE TRANSMITTAL
FY 2004

	Complete if Known
Application Serial Number	10/765,372
Filing Date	January 27, 2004
First Named Inventor	Westhoff
Group Art Unit	Not yet assigned
Examiner Name	Not yet assigned
Attorney Docket No.	ASC-066

METHOD OF PAYMENT

1. ☒ Payment Enclosed:
   ☒ Check ☐ Money Order ☐ Other
2. ☒ The Commissioner is hereby authorized to credit or charge any fee indicated below for this submission to Deposit Account No. 20-0531.
   ☐ Required Fees (copy of this sheet enclosed).
   ☒ Additional fee required under 37 CFR 1.16 and 1.17.
   ☒ Overpayment Credit.
3. ☐ Applicant claims small entity status.

FEE CALCULATION

1. FILING FEE

Large Entity Fee ($)	Fee Description	Fee Paid
770	Utility filing fee	
340	Design filing fee	
160	Provisional filing fee	

	Number Filed	Number Extra	Rate	Amount
Total Claims		- 20 =	x $ 18.00 =	
Independent Claims		- 3 =	x $ 86.00 =	
☐ Multiple Dependent Claim(s), if any			$290.00 =	

TOTAL:
SMALL ENTITY DISCOUNT:
SUBTOTAL (1) ($) 0.00

2. AMENDMENT CLAIM FEES

	Claims Remaining After Amend.	Highest No. Previously Paid For	Present Extra	Rate	Fee Paid
Total	-		=	x $ 18.00 =	
Indep.	-		=	x $ 86.00 =	
☐ First Presentation of Multiple Dep. Claim				+ $290.00 =	

TOTAL: ($)
SMALL ENTITY DISCOUNT: ($)
SUBTOTAL (2) ($)0.00

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee ($)	Small Entity Fee ($)	Fee Description	Fee Paid
130	65	Surcharge - late filing fee or oath	
50	25	Surcharge - late provisional filing fee or cover sheet	
130	130	Non-English specification	
2,520	2,520	Request for ex parte reexamination	
110	55	Extension for reply within first month	
420	210	Extension for reply within second month	
950	475	Extension for reply within third month	
1480	740	Extension for reply within fourth month	
2010	1005	Extension for reply within fifth month	
330	165	Notice of Appeal	
330	165	Filing a brief in support of an appeal	
290	145	Request for oral hearing	
130	130	Petitions to the Commissioner	130.00
180	180	Submission of Information Disclosure Statement	
770	385	Filing a submission after final rejection (37 CFR 1.129(a))	
770	385	For each additional invention to be examined (37 CFR 1.129(b))	
100	100	Certificate of Correction for applicant's error	
110	55	Submission of Terminal Disclaimer	
Other fee (Specify)			
Other fee (Specify)			

SUBTOTAL (3) ($) 130.00

SUBTOTAL (1)	0.00
SUBTOTAL (2)	0.00
SUBTOTAL (3)	130.00
TOTAL	($) 130.00

CORRESPONDENCE ADDRESS

Direct all correspondence to:
Patent Administrator
Testa, Hurwitz & Thibeault, LLP
High Street Tower-125 High Street
Boston, MA 02110
Tel. No.: (617) 248-7000
Fax No.: (617) 248-7100

SIGNATURE BLOCK

Respectfully submitted,

Date: March 26, 2004
Reg. No.: 44,381
Tel. No.: (617) 310-8327
Fax No.: (617) 248-7100

Natasha C. Us
Attorney for the Applicants
Testa, Hurwitz & Thibeault, LLP
High Street Tower-125 High Street
Boston, MA 02110

OIPE JC163
MAR 29 2004
PATENT & TRADEMARK OFFICE

TRANSMITTAL FORM

Application Serial Number	10/765,372
Filing Date	January 27, 2004
First Named Inventor	Westhoff
Group Art Unit	Not yet assigned
Examiner Name	Not yet assigned
Attorney Docket No.	ASC-066
Patent No.	Not applicable
Issue Date	Not applicable

ENCLOSURES *(check all that apply)*

- ☒ Fee Transmittal Form
  - ☒ Check Attached
  - ☐ Copy of Fee Transmittal Form
- ☐ Amendment/Response
  - ☐ Preliminary
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
  - ☐ Letter to Official Draftsperson including Drawings [Total Sheets _____]
- ☐ Petition for Extension of Time
- ☐ Information Disclosure Statement
  - ☐ Form PTO-1449
  - ☐ Copies of IDS Citations
- ☐ Certified Copy of Priority Document(s)
- ☐ Sequence Listing submission
  - ☐ Paper Copy/CD
  - ☐ Computer Readable Copy
  - ☐ Statement verifying identity of above
- ☐ Copy of Notice to File Missing Parts of Application
- ☒ Formal Drawing(s)
- ☐ Request For Continued Examination (RCE) Transmittal
- ☐ Power of Attorney (Revocation of Prior Powers)
- ☐ Terminal Disclaimer
- ☐ Executed Declaration and Power of Attorney for Utility or Design Patent Application
- ☐ Small Entity Statement
- ☐ CD(s) for large table or computer program
- ☐ Amendment After Allowance
- ☐ Request for Certificate of Correction
  - ☐ Certificate of Correction (in duplicate)
- ☐ Notice of Appeal to Board of Patent Appeals and Interferences
- ☐ Appeal Brief (in triplicate)
- ☐ Status Inquiry
- ☒ Return Receipt Postcard
- ☒ Certificate of First Class Mailing under 37 C.F.R. 1.8
- ☐ Certificate of Facsimile Transmission under 37 C.F.R. 1.8
- ☒ Additional Enclosure(s) *(please identify below)*

  Petition Under 37 C.F.R. § 1.182

CORRESPONDENCE ADDRESS

Direct all correspondence to: Patent Administrator
Testa, Hurwitz & Thibeault, LLP
High Street Tower
125 High Street
Boston, MA 02110
Tel. No.: (617) 248-7000
Fax No.: (617) 248-7100

SIGNATURE BLOCK

Respectfully submitted,

Date: March 26, 2004
Reg. No. 44,381
Tel. No.: (617) 310-8327
Fax No.: (617) 248-7100

Natasha C. Us
Attorney for Applicant(s)
Testa, Hurwitz & Thibeault, LLP
High Street Tower
125 High Street
Boston, MA 02110

VER 12/00
3043941_1

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 Jun-08

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

COPY MAILED

JUN 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Lai et al.	:	
Application Number: 10/765383	:	ON PETITION
Filing Date: 01/27/2004	:	
Attorney Docket Number:	:	
INTV.020A	:	

This is a decision in reference to the paper entitled "REQUEST FOR REINSTATEMENT OF PATENT APPLICATION TO A PENDING STSTATE AND THE ISSUANCE OF A CORRECTED OFFICIAL ACTION," filed on May 14, 2008, which, in view of petitioner's statements therein, is treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

This application became abandoned on November 18, 2007, for failure to timely submit a proper reply to the non-final Office action mailed on August 17, 2007, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on March 19, 2008.

Petitioners state that the Office action mailed on August 17, 2007, was incorrect, and that applicants' attorney contracted the examiner and informed him "that the Official Action was incorrect and that no report could be generated to the client nor could any response be made to the Official Action."

Petitioners' counsel further states that a new Office action was promised by the examiner then assigned to the case, Examiner Mitiku Debelie, in a telephone call on August 27, 2007. However, no new Office action was mailed, and the application was subsequently held abandoned.

Petitioner's argument has been considered, but is not persuasive.

37 CFR 1.135 states, in pertinent part.

> (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.

Further, the Office action mailed on August 17, 2007, states that a shortened statutory period for reply is set to expire 3 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).

37 CFR 1.2 states that the action of the U.S. Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The showing of record is that petitioners did not timely file a proper reply to the non-final Office action mailed on August 17, 2007.

With regard to petitioners' assertion that the examiner agreed to provide a new Office action, there is no evidence in the record to support that contention. Furthermore, there is no showing that petitioners timely filed a response to the non-final Office action mailed on August 17, 2007.

Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action.[1] The rule clearly indicates that a proper written response must be timely filed to save the application from abandonment. Thus, the application became abandoned due to petitioner's failure to file a timely and proper response to the non-final Office action mailed August 17, 2007, and not because of any error on the part of the Office.

---

[1] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-300 (CCPA 1964); Krahn v. Commissionerr, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

In summary, to the extent that petitioner's counsel believed that the examiner had agreed that no further action was needed to avoid abandonment of the application, there is no showing in the written record to support that allegation. As MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicants' reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicants of any deficiency in sufficient time to permit the applicant to take corrective action.[2]

The U.S. 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.[3] 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 U.S.C. § 133.[4]

As such, the showing of record is that the abandonment resulted from the failure of petitioners to file a timely and proper response to the non-final Office action, rather than an error on the part of the USPTO.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

Petitioner may wish to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision. **This time period may not be extended.** 37 CFR 1.181(f).

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[2] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

[3] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[4] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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NOV 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Lai et al.	:	
Application Number: 10/765383	:	
Filing Date: 01/27/2004	:	ON PETITION
Attorney Docket Number:	:	
INTV.020A	:	

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on October 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on November 18, 2007, for failure to timely submit a proper reply to the non-final Office action mailed on August 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. Notice of Abandonment was mailed on March 19, 2008. The petition to withdraw the holding of abandonment filed on May 14, 2008, was dismissed on June 10, 2008.

---

[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 reply filed with the subject petition is acknowledged. The reply will be reviewed by the examiner to determine if it is in compliance with the requirements of 37 CFR 1.111.

The application is referred to Technology Center 2621 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/04/08

TO SPE OF : ART UNIT 3653

SUBJECT : Request for Certificate of Correction for Appl. No.: 10765400 Patent No.: 7377506 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

_____
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **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

3653

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

COPY MAILED

MAR 26 2007

OFFICE OF PETITIONS

In re Application of		
Richard A. Samsel	:	
Application No. 10/765,404	:	DECISION ON
Filed: January 26, 2004	:	PETITION
Attorney Docket No. 5031-198CT	:	

This is in response to the paper titled "PETITION UNDER 37 C.F.R. 1.137(b)", filed January 8, 2007, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in light of petitioner's statement that the abandonment was due to USPTO error and that no fee is necessary.

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 1.137(b)." There is no fee for the renewed petition. This is **not** a final agency decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed May 16, 2006. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on August 17, 2006. A Notice of Abandonment was mailed on December 14, 2006.

Petitioner states that he did timely file a reply to the Office action. In support thereof, petitioner has included a copy of a USPTO date stamped, postcard receipt, dated August 18, 2006, and itemizing an Amendment and a check in the amount of $200.[1] In addition, petitioner has supplied a copy of the amendment allegedly filed on that date, bearing a timely Certificate of Mailing dated August 15, 2006.

However, the Amendment supplied by petitioner does not bear a signature of the attorney, James R. Cannon. Pursuant to 37 CFR 1.4(d), each piece of correspondence must bear a signature.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petition

[1] Petitioner has not supplied any evidence that the check was cashed by the USPTO.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAY 23 2007

OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of
Richard A. Samsel :
Application No. 10/765,404 : DECISION ON
Filed: January 26, 2004 : PETITION
Attorney Docket No. 5031-198CT :

This is in response to the petition to revive under 37 CFR 1.137(b), filed April 5, 2007.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed May 16, 2006. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on August 17, 2006. A Notice of Abandonment was mailed on December 14, 2006. Applicant filed a petition to withdraw the holding of abandonment on January 8, 2007. However, the petition was dismissed in a decision mailed on March 26, 2007.

With the instant petition, applicant has paid the petition fee, submitted the required reply in the form of an Amendment, and made the proper statement of unintentional delay.

The petition fee of $1,500 has been charged to Deposit Account No. 50-0220, as authorized.

The matter is being forwarded to Group Art Unit 3677 for consideration of the Amendment, filed April 5, 2007.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petition

30

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

WASHINGTON, D. C. 20231

In re application of: 10/765405	Examiner: Unknown Alexander, Lyle
NAISHU WANG	Art Unit: Unknown 1743
Serial No: Unknown/10/765405	
Filed: Unknown 1-26-04	
For: DISPOSABLE IMMUNOASSAY SAMPLE-COLLECTOR AND CHROMATOGRAPHIC-TESTING DEVICE	

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102

Mail Stop Petitions Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully petitions to make the present application special on the basis of its relationship to developing treatments and cures for HIV/AIDS.

Please find the Statement below and a check in the amount of $130.00 covering the fee set forth in 37 C.F.R.

01/30/2004 HTECKLU1 00000051 10765405
01 FC:1460 130.00 OP

1

PETITION GRANTED

R Crispino

Richard Crispino
Special Program Examiner
TC 1700

JUN 28 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OCT 19 2005

GORDON E. NELSON
PATENT ATTORNEY, PC
57 CENTRAL STREET
P.O. BOX 782
ROWLEY, MA 01969

In re application of Douglas F. Beaven Application No. 10/765,424 Filed: January 27, 2004 For: SYSTEM FOR PERFORMING COLLABORATIVE TASKS	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on September 30, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration indicating Mr. Beaven is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioners makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 10/12/05

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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PHILIP R. WARN
WARN, HOFFMANN, MILLER & LALONE, P.C.
P.O. BOX 70098
ROCHESTER HILLS, MI 48307

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
LaFave et al.	:	DECISION ON PETITION
Application No. 10/765,427	:	TO WITHDRAW
Filed: January 27, 2004	:	FROM RECORD
Attorney Docket No. POL-00011	:	

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 27, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on April 17, 2006 the power of attorney to Warn, Hoffmann, Miller & LaLone, P.C. was revoked by the applicants of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Howard & Howard
Attorneys PLLC
450 West Fourth Street
Royal Oak MI 48067

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.

DONALD J. LENKSZUS
PO BOX 3064
CAREFREE, AZ 85377-3064

COPY MAILED

JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
William Wiles	:	
Application No. 10/765,449	:	DECISION ON
Filed: January 27, 2004	:	PETITION
Atty Docket No. WILES-005	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed April 1, 2005.

The petition under § 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 C.F.R. § 1.137(a)," or "Renewed Petition under 37 C.F.R. § 1.137(b)," as appropriate. Extensions of time are permitted under § 1.136(a).

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice to File Missing Parts of Application mailed June 15, 2004. This Notice set a two month time limit for reply, with extensions of time obtainable under 37 CFR §1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective August 16, 2004. A courtesy Notice of Abandonment was mailed on March 10, 2005.

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable. Specifically,

petitioner maintains that the filing receipt and the Notice to File Missing Parts of Application were not received.

Consideration under § 1.137(a)

A grantable petition under § 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 C.F.R. § 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 this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d).

As to requirement (1), absent a persuasive showing of non-receipt, any petition under § 1.137 to be grantable must include the required fees in the amount in effect on the date of filing of the petition.

As to requirement (2), the instant petition does not satisfy the requirement.

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 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). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

A review of the application file reveals no irregularities in the mailing of the Notice to File Missing Parts of Application as mailed on June 15, 2004. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. 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. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. Petitioner has not supported his claims of non-receipt with such evidence.

Petitioner is further reminded that 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).

Having not made an adequate showing of non-receipt of the Office action or other showing of unavoidable delay, the petition cannot be granted under § 1.137(a).

Consideration under § 1.137(b)

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable,

petitioner is not precluded from seeking revival based on unintentional delay. A grantable petition under §1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 C.F.R. §1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to § 1.137(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (703) 872-9306
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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.

DONALD J. LENKSZUS
PO BOX 3064
CAREFREE, AZ 85377-3064

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of	:	
William Wiles	:	
Application No. 10/765,449	:	DECISION ON
Filed: January 27, 2004	:	PETITION
Atty Docket No. WILES-005	:	

This is a decision on the RENEWED PETITION UNDER 37 CFR 1.137(A) AND REQUEST FOR RECONSIDERATION filed July 18, 2005.

The petition under § 1.137(a) is **GRANTED**.

The above-identified application became abandoned on August 16, 2004 for failure to file a timely and proper reply to the Notice to File Missing Parts of Application mailed June 15, 2004. A courtesy Notice of Abandonment was mailed on March 10, 2005. By decision mailed July 8, 2005, the initial petition filed April 1, 2005 was dismissed. Petitioner did not meet his burden of establishing that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable within the meaning of § 1.137(a). Specifically, petitioner did not submit adequate evidence to show, as alleged, that the Notice to File Missing Parts of Application was not received.

Preliminarily, it is noted that the initial decision contained a typographical error as follows (as recognized by petitioner):

> As to requirement (1), absent a persuasive showing of non-receipt, any petition under § 1.137 to be grantable must include the required fees in the amount in effect on the

> date of filing of the petition. As to requirement (2), the instant petition does not satisfy the requirement.

This language appeared in the decision in error. In fact, the only basis for dismissing the petition was that it did not satisfy requirement (3)("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 was unavoidable."). The petition as filed on April 1, 2005 included a response to the Notice to File Missing Parts and payment of the petition fee. No terminal disclaimer is required to revive this application.

On instant renewed petition, petitioner submitted a statement from the practitioner stating that the Office communication mailed June 15, 2004 was not received by the practitioner prior to March 16, 2005. Practitioner attested to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed was attached to and referenced in practitioner's statement.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is, thereby, forwarded to OIPE for processing of the response filed April 1, 2005.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No.

DONALD J. LENKSZUS
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CAREFREE, AZ 85377-3064

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JUN 30 2005

OFFICE OF PETITIONS

In re Application of	:	
William Wiles	:	
Application No. 10/765,450	:	DECISION ON
Filed: January 27, 2004	:	PETITION
Atty Docket No. WILES-004	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed March 31, 2005.

The petition under § 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 C.F.R. § 1.137(a)," or "Renewed Petition under 37 C.F.R. § 1.137(b)," as appropriate. Extensions of time are permitted under § 1.136(a).

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice to File Missing Parts of Application mailed June 15, 2004. This Notice set a two month time limit for reply, with extensions of time obtainable under 37 CFR §1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective August 16, 2004. A courtesy Notice of Abandonment was mailed on March 11, 2005.

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable. Specifically,

petitioner maintains that the filing receipt and the Notice to File Missing Parts of Application were not received.

Consideration under § 1.137(a)

A grantable petition under § 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 C.F.R. § 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 this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d).

As to requirement (1), absent a persuasive showing of non-receipt, any petition under § 1.137 to be grantable must include the required fees in the amount in effect on the date of filing of the petition.

As to requirement (2), the instant petition does not satisfy the requirement.

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 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). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

A review of the application file reveals no irregularities in the mailing of the Notice to File Missing Parts of Application as mailed on June 15, 2004. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. 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. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. Petitioner has not supported his claims of non-receipt with such evidence.

Having not made an adequate showing of non-receipt of the Office action or other showing of unavoidable delay, the petition cannot be granted under § 1.137(a).

Consideration under § 1.137(b)

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 seeking revival based on unintentional delay. A grantable petition under §1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 C.F.R. §1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable

petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to § 1.137(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (703) 872-9306
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No.

DONALD J. LENKSZUS
PO BOX 3064
CAREFREE, AZ 85377-3064

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of	:	
William Wiles	:	
Application No. 10/765,450	:	DECISION ON
Filed: January 27, 2004	:	PETITION
Atty Docket No. WILES-004	:	

This is a decision on the RENEWED PETITION UNDER 37 CFR 1.137(A) AND REQUEST FOR RECONSIDERATION filed July 8, 2005.

The petition under § 1.137(a) is **GRANTED**.

The above-identified application became abandoned on August 16, 2004 for failure to file a timely and proper reply to the Notice to File Missing Parts of Application mailed June 15, 2004. A courtesy Notice of Abandonment was mailed on March 11, 2005. By decision mailed June 30, 2005, the initial petition filed March 31, 2005 was dismissed. Petitioner did not meet his burden of establishing that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable within the meaning of § 1.137(a). Specifically, petitioner did not submit adequate evidence to show, as alleged, that the Notice to File Missing Parts of Application was not received.

Preliminarily, it is noted that the initial decision contained a typographical error as follows (as recognized by petitioner):

> As to requirement (1), absent a persuasive showing of non-receipt, any petition under § 1.137 to be grantable must include the required fees in the amount in effect on the

> date of filing of the petition. As to requirement (2), the instant petition does not satisfy the requirement.

This language appeared in the decision in error. In fact, the only basis for dismissing the petition was that it did not satisfy requirement (3)("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 was unavoidable."). The petition as filed on March 31, 2005 included a response to the Notice to File Missing Parts and payment of the petition fee. No terminal disclaimer is required to revive this application.

On instant renewed petition, petitioner submitted a statement from the practitioner stating that the Office communication mailed June 15, 2004 was not received by the practitioner prior to March 16, 2005. Practitioner attested to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed was attached to and referenced in practitioner's statement.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is, thereby, forwarded to OIPE for processing of the response filed March 31, 2005.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Stephen J. Schultz
Watts Hoffman Co., LPA
110 Superior Avenue, Suite 1750
Cleveland, OH 44114

DEC 10 2005

In re Application of:
Mario Boisvert et al.
Serial No.: 10/765,487
Filed: January 27, 2004
Attorney Docket No.: 14-733C2D1

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed on April 25, 2005 under 37 C.F.R. § 1.102(d) requesting that the above identified application be granted special status and examined out of turn on the ground of actual infringement as set forth in MPEP § 708.02 II.

The petition is GRANTED.

MPEP § 708.02 II requires, besides a petition, petition fee and a copy of each of the references deemed most closely related to the subject matter encompassed by the claims (if such references are not already of record), a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has good knowledge of the pertinent prior art.

The petition filed April 25, 2005 has been considered and found to comply with all the requirements set forth in MPEP § 708.02 II.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

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TAROLLI, SUNDHELM, COVELL &
TUMMINO, LLP
1300 EAST NINTH STREET
SUITE 1700
CLEVELAND OH 44114

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JUL 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Boisvert et al.	:	
Application No. 10/765,487	:	ON APPLICATION FOR
Filed: January 27, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 14-733C2D1	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR §1.705(b) filed on March 4, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is eight hundred ninety-eight (898) days, not four hundred thirty-four (434) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

The application for patent term adjustment is **GRANTED to the extent indicated**.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is FOUR HUNDRED TWENTY-ONE (421) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

To the extent 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].

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for

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).

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of the mailing of the Notice of Allowance, the request is **granted to the extent indicated**.

On February 24, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was four hundred thirty-four (434) days. The period of adjustment was 434 days of PTO delay and 0 days of applicant delay.

On January 30, 2009, the subject application for patent term adjustment was timely filed.[2]

On June 5, 2008, a request for continued examination and an preliminary amendment were filed in response to a final office action mailed on May 30, 2009. On June 18, 2008, an information disclosure statement was filed, 13 days after the filing of the request for continued examination on June 5, 2008.[3]

37 CFR 1.704(c)(8) states 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 a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the

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reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

[2] Office records indicate that the issue fee was paid on March 5, 2009.

[3] A paper styled as an information disclosure statement (IDS) was filed with the request for continued examination on June 5, 2008. That paper was unsigned, however. On June 18, 2008, a properly signed IDS was filed.

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.

Accordingly, entry of a period of reduction of thirteen (13) days is warranted.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is four hundred twenty-one (421) days (434 days of office delay reduced by thirteen (13) days of applicant delay).

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: Copy of updated PAIR screen

Day : Tuesday
Date: 7/21/2009

PALM INTRANET

Time: 19:28:06

PTA Calculations for Application: 10/765487			
Application Filing Date:	01/27/2004	PTO Delay (PTO):	434
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	421
PTO Delay Adjustment:	-13		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
86	07/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		13	
79	02/24/2009	MAIL NOTICE OF ALLOWANCE			
78	02/19/2009	ISSUE REVISION COMPLETED			
77	02/19/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
76	02/19/2009	CASE DOCKETED TO EXAMINER IN GAU			
75	02/19/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
74	02/19/2009	DOCUMENT VERIFICATION			
73	02/19/2009	NOTICE OF ALLOWABILITY			
72	01/26/2009	DATE FORWARDED TO EXAMINER			
71	01/20/2009	AMENDMENT AFTER FINAL REJECTION			
70	01/05/2009	MAIL FINAL REJECTION (PTOL - 326)	17		65
69	01/05/2009	FINAL REJECTION			
68	10/24/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
67	09/25/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
66	10/06/2008	DATE FORWARDED TO EXAMINER			
65	08/19/2008	RESPONSE AFTER NON-FINAL ACTION			
63	07/23/2008	MAIL NON-FINAL REJECTION			
62	07/21/2008	NON-FINAL REJECTION			
61	06/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	06/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	06/18/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

58	06/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	06/05/2008	REFERENCE CAPTURE ON IDS			
56	06/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	06/30/2008	DATE FORWARDED TO EXAMINER			
54	06/05/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
53	06/30/2008	DATE FORWARDED TO EXAMINER			
52	06/05/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
51	06/30/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
50	06/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	06/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	06/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	06/05/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
46	05/30/2008	MAIL FINAL REJECTION (PTOL - 326)	20		43
45	05/28/2008	FINAL REJECTION			
44	02/02/2008	DATE FORWARDED TO EXAMINER			
43	01/10/2008	RESPONSE AFTER NON-FINAL ACTION			
42	10/31/2007	MAIL NON-FINAL REJECTION	11		37
41	10/26/2007	NON-FINAL REJECTION			
40	07/02/2007	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
39	07/02/2007	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
38	06/23/2007	DATE FORWARDED TO EXAMINER			
37	06/20/2007	RESPONSE AFTER NON-FINAL ACTION			
36	05/30/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
35	04/10/2007	MAIL NON-FINAL REJECTION			
34	04/02/2007	NON-FINAL REJECTION			
33	12/26/2006	DATE FORWARDED TO EXAMINER			
32	12/13/2006	RESPONSE AFTER NON-FINAL ACTION			
31	10/16/2006	MAIL NON-FINAL REJECTION	11		27
30	10/13/2006	NON-FINAL REJECTION			

29	08/02/2006	CORRESPONDENCE ADDRESS CHANGE			
28	06/09/2006	DATE FORWARDED TO EXAMINER			
27	06/05/2006	RESPONSE AFTER NON-FINAL ACTION			
26	04/06/2006	MAIL NON-FINAL REJECTION	375		-1
25	04/03/2006	NON-FINAL REJECTION			
24	11/26/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	12/30/2005	CORRESPONDENCE ADDRESS CHANGE			
22	12/09/2005	MAIL-RECORD PETITION DECISION OF GRANTED TO MAKE SPECIAL			
21	04/25/2005	PETITION ENTERED			
20	12/08/2005	CORRESPONDENCE ADDRESS CHANGE			
19	11/26/2004	REFERENCE CAPTURE ON IDS			
18.7	11/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	11/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	07/15/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	07/15/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	01/27/2004	PRELIMINARY AMENDMENT			
14	06/16/2004	APPLICATION RETURN FROM OIPE			
13	06/16/2004	APPLICATION RETURN TO OIPE			
12	06/16/2004	APPLICATION RETURN FROM OIPE			
11	06/17/2004	APPLICATION IS NOW COMPLETE			
10	06/16/2004	APPLICATION RETURN TO OIPE			
9	06/15/2004	APPLICATION RETURN FROM OIPE			
8	06/16/2004	APPLICATION IS NOW COMPLETE			
7	06/15/2004	APPLICATION RETURN TO OIPE			
6	06/15/2004	APPLICATION DISPATCHED FROM OIPE			
5	06/16/2004	APPLICATION IS NOW COMPLETE			
4	03/10/2004	CLEARED BY OIPE CSR			
3	03/10/2004	CASE CLASSIFIED BY OIPE			
2	02/04/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/27/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

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Paper No.

TAROLLI, SUNDHELM, COVELL & TUMMINO, LLP
1300 EAST NINTH STREET
SUITE 1700
CLEVELAND OH 44114

MAILED

APR 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,579,802	:	DECISION ON REQUEST
Boisvert et al.	:	FOR
Issue Date: August 25, 2009	:	RECONSIDERATION OF
Application No. 10/765,487	:	PATENT TERM ADJUSTMENT
Filed: January 27, 2004	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
14-733C2D1	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 23, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred thirty-six (936) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred thirty-five (935) 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 28, 2007, and ends on June 4, 2008, the day before the RCE was filed, and is 494 (not 495) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 935, not 936 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred thirty-five (935)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,579,802 B2

DATED : **August 25, 2009** **DRAFT**

INVENTOR(S) : Boisvert 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 550 days.

Delete the phrase "by 550 days" and insert – by 935 days--

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BAXTER HEALTHCARE CORPORATION
BRADFORD R.L. PRICE, FENWAL DIVISION RLP-30
ROUTE 120 AND WILSON ROAD
ROUND LAKE, IL 60073

COPY MAILED

DEC 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Mark R. Vandlik, Michael J. Kast and :
Kelly B. Smith :
Application No. 10/765,498 :
Filed: January 26, 2004 :
For: BLOOD PROCESSING SYSTEMS AND :
METHODS THAT EMPLOY AN IN-LINE, :
FLEXIBLE LEUKOFILTER :

DECISION ON PETITION

This is in response to the "Petition Pursuant to 37 CFR 1.183, Requesting Waiver of Requirement 37 CFR 1.64, That an Original Inventor (Kelly B. Smith) Execute New Oath or Declaration When New Inventors Are Added With Assignee's Consent," filed August 4, 2005.

The petition is dismissed.

Petitioner is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183." Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Petitioner has failed to show that the nonsigning inventor cannot be reached or located. Petitioner should submit a statement of facts that describes any diligent efforts petitioner has used 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. Copies of documentary evidence such as internet searches, telephone directory searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be located or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

Please note, the petition under 37 CFR 1.48 shall be held in abeyance as the instant petition is decided.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Baxter Healthcare Corporation
Bradford R.L. Price, Fenwal Division RLP-30
Route 120 and Wilson Road
Round Lake IL 60073

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MAR 2 9 2007

OFFICE OF PETITIONS

In re Application of	:	
VANDLIK et al	:	DECISION NOTING JOINDER OF
Application No. 10/765,498	:	INVENTOR AND REQUEST UNDER
Filed: January 26, 2004	:	37 CFR 1.48(c)
Attorney Docket No. F-5489 CIP 2 CON	:	

This is in response to the REQUEST FOR RECONSIDERATION filed on June 12, 2006 along with the addendum filed on June 23, 2006 pertaining to a Petition Pursuant to 37 CFR 1.183, Requesting Waiver of Requirement 37 CFR 1.64, that Original Inventor (Kelly B. Smith) Execute New Oath or Declaration When New Inventors are Added with Assignee's Consent mailed December 9, 2006. This is also in response to the Request for Correction of Inventorship filed on August 4, 2005.

The petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64 is **DISMISSED AS MOOT**.

The papers filed on June 23, 2006 included a Declaration signed by a previously non-signing inventor, KELLY B. SMITH, and therefore is in compliance with 37 CFR 1.63. In view of the joinder of the inventor, further consideration under § 1.183 Requesting Waiver of 37 CFR 1.64 is not necessary.

The Request for Correction of Inventorship under 37 CFR 1.48(c) is **GRANTED**.

In view of the papers filed on August 4, 2005, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(c). The inventorship of this application has been changed by the addition of inventors TOM WESTBERG and ROHIT VISHNOI.

This application is being referred to Technology Center Art Unit 3761 for appropriate action.

Telephone inquiries should be directed to Amelia Au at (571) 272-7414.

Frances Hicks
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/765,498	01/26/2004	3761	3060	F-5489 CIP 2 CON	8	1

CONFIRMATION NO. 2510

CORRECTED FILING RECEIPT

OC000000023157443

Baxter Healthcare Corporation
Bradford R.L. Price, Fenwal Division RLP-30
Route 120 and Wilson Road
Round Lake, IL 60073

Date Mailed: 03/29/2007

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)

Mark R. Vandlik, Mundelein, IL;
Michael J. Kast, Evanston, IL;
Kelly B. Smith, Gurnee, IL;
Tom Westberg, Gurnee, IL;
Rohit Vishnoi, Deerfield, IL;

Assignment For Published Patent Application

Baxter International Inc.

Power of Attorney:

Allan Maki--20623
Gary McFarron--27357
Bradford Price--29101
Daniel Ryan III--29243
David Lesht--30472
Joseph Kromholz--34204
Michael Mayo--38545
John Manion--38957
Daniel Johnson--46204
Laura Dable--46436

Domestic Priority data as claimed by applicant

This application is a CON of 09/976,833 10/13/2001 PAT 6,709,412
which is a CIP of 09/389,504 09/03/1999 PAT 7,041,076

Foreign Applications

If Required, Foreign Filing License Granted: 05/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris

Convention, is US10/765,498

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Blood processing systems and methods that employ an in-line, flexible leukofilter

Preliminary Class

604

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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DLA PIPER US LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

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MAR 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Scanlan et al.	:	
Application No. 10/765,539	:	DECISION ON PETITION
Filed: January 27, 2004	:	
Attorney Docket No. 2103175-991111	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2165 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS MI 48304-5151

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OFFICE OF PETITIONS

In re Patent No. 7,047,856	:	
Nurenberg et al.	:	
Issue Date: May 23, 2006	:	
Application No. 10/765,551	:	LETTER REGARDING
Filed: January 26, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 68,002-443	:	
Title: SAW TABLE	:	

This is a decision on the "MAKE OF RECORD LETTER," filed August 21, 2006. Pursuant to their duty of good faith and candor to the Office, patentees disclose that the patent term adjustment indicated on the face of the Letters Patent should be corrected from two hundred and four (204) days to one hundred and ninety-two (192) days.

The request for reconsideration of the patent term adjustment is **DISMISSED**.

On May 23, 2006, the above-identified application matured into U.S. Patent No. 7,047,856, with a revised Patent Term Adjustment of 204 days. It appears that patentees are pointing to the calculation of 192 days of PTO delay at the time of the mailing of the notice of allowance, and have not considered the subsequent accrual of 12 days of PTO delay.

Patentees' attempt at candor is appreciated. However, patentees have incorrectly evaluated the 204-day period of adjustment. This period of adjustment was properly entered pursuant to 37 CFR 1.702(a)(1) and 1.702(a)(4).

Pursuant to 37 C.F.R. §1.702(a)(1), the Office is required to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a). The application was filed on January 26, 2004, and the Office mailed a non-final action on October 3, 2005, which is fourteen months and 192 days after the filing of the application.

Pursuant to 37 C.F.R. §1.702(a)(4), the Office is required to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied. The issue and publication fees were received on January 11, 2006, and the patent did not issue until May 23, 2006, which is four months and 12 days after the receipt of the issue fee.

Thus, the proper period of adjustment is 204 (192 + 12) days.

In view thereof, the patent properly issued with a revised patent term adjustment of 204 days (204 days of Office delay reduced by 0 days of applicant delay).

To the extent that 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 matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ROBERT E. KREBS
THELEN REID & PRIEST, LLP
P.O. BOX 640640-0640
SAN JOSE, CA 95164-0640

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OFFICE OF PETITIONS

In re Application of	:	
SKUKLA, et al.	:	
Application No. 10/765,558	:	DECISION ON PETITION
Filed: January 26, 2004	:	TO WITHDRAW
Attorney Docket No. 034421-000178	:	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 **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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **THELEN REID BROWN RAYSMAN & STEINER LLP**
P. O. BOX 640640
SAN JOSE, CA 95164-0640

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OFFICE OF PETITIONS

ROBERT E. KREBS
THELEN, REID & PRIEST, LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

In re Application of	:	
Hilton Hong, et al.	:	
Application No. 10/765,561	:	DECISION ON PETITION
Filed: January 26, 2004	:	TO WITHDRAW
Attorney Docket No. 034421-000179	:	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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Thelen, Reid & Priest, LLP has been revoked by the assignee of the patent application on February 22, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/765,561	01/26/2004	Hilton Hong	026153-010900US

CONFIRMATION NO. 8138

OC000000024453679

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 06/20/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/22/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT 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
10/765,561	01/26/2004	Hilton Hong	034421-000179

CONFIRMATION NO. 8138

OC000000024453663

Robert E. Krebs
Thelen Reid & Priest, LLP
P.O. Box 640640
San Jose, CA 95164-0640

Date Mailed: 06/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/22/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/765,561	01/26/2004	Hilton Hong	034421-000179

CONFIRMATION NO. 8138

OC000000024453663

Robert E. Krebs
Thelen Reid & Priest, LLP
P.O. Box 640640
San Jose, CA 95164-0640

Date Mailed: 06/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/22/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

April Monise

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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Robert E. Krebs
Thelen Reid & Priest, LLP
P.O. Box 640640
San Jose CA 95164-0640

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OFFICE OF PETITIONS

In re Application of :
Daniel Yun-chak Wong et al :
Application No. 10/765,562 : DECISION ON PETITION
Filed: January 26, 2004 :
Attorney Docket No. :
Q34421-000177

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 22, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 3, 2005, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on March 4, 2006. A Notice of Abandonment was mailed on June 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/604,176, filed November 22, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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FEB 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Raymond E. Barnett, et al. :
Application No. 10/765,599 : DECISION ON PETITION
Filed: January 27, 2004 :
Attorney Docket No. TI-36778 / DDM03-034 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 13, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 13, 2006. Accordingly, the date of abandonment of this application is September 14, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Publishing Division for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Thompson E. Fehr
Suite 300
Goldenwest Corporate Center
5025 Adams Avenue
Ogden, UT 84403

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OFFICE OF PETITIONS

In re Application of

Kevin D. Taylor :

Application No. 10/765,609

: DECISION ON PETITION

Filed: January 26, 2004

:

Attorney Docket No. PTAYKC

This is a decision on the petition under 37 CFR 1.137(b), filed, December 12, 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 19, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on July 20, 2006. A Notice of Abandonment was mailed October 27, 2006.

The amendment filed December 12, 2006, is noted.

The application is being forwarded to Technology Center 3600, GAU 3632 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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OFFICE OF PETITIONS

In re Application of

Kevin D. Taylor

Application No. 10/765,609

Filed: January 26, 2004

Attorney Docket No. PTAYKC

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), December 3, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $720.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed May 9, 2007. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on August 10, 2007. A Notice of Abandonment was mailed September 5, 2007.

The issue fee and publication fee were received on December 3, 2007.

Form PTOL-85B, filed December 3, 2007, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Shiv Kumar Gupta	: DECISION ON REQUEST FOR
Patent Number	: 7617416	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/765,615	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **878** 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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HALLIBURTON ENERGY SERVICES
P.O. BOX 819052
DALLAS, TX 75381-9052

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OFFICE OF PETITIONS

In re Application of
David J. Steele, et al.
Application No. 10/765,627
Filed: January 27, 2004
Attorney Docket No. 006073 U1D1 USA

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 19, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before September 8, 2006. A Notice of Abandonment was mailed on December 20, 2006. In response, on January 19, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,400 issue fee and the $300 publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

In re Application of:
Strecker, Timothy D. et al.
Serial No.: 10/765,628
Filed: Jan. 27, 2004
Docket: 200312175-1
Title: DISPENSING APPARATUS INCLUDING A CERAMIC BODY

DECISION ON PETITIONS

This is a decision on the petition filed on May 29, 2007 by which petitioner requests the examiner to withdraw the restriction requirement mailed on Oct. 10, 2006; and a decision on the petition filed on Nov. 20, 2007 by which petitioner requests the examiner's refusal to enter the amendment filed Jun. 27, 2007 be overruled. The petitions are being considered pursuant to 37 CFR 1.181, and no fee is required.

These petitions are dismissed as moot.

Discussion and Analysis

A review of the prosecution history shows that an election of species was mailed on Nov. 9, 2006. The applicant elected with traverse for examination the specie represented by Fig. 7. On Feb. 23, 2007, the examiner issued a first action on the merits and additionally held claims 2-4, 14, 39, 40, 43 and 44 as not readable on the elected species of Fig. 7. On May 29, 2007, the current petition to withdraw the election of species requirement was filed. On Jun. 27, 2007, the applicant also filed an amendment amending independent claims 1, 38 and 42. An Office action was mailed on Sep. 20, 2007 and held the amendment of Jun. 27, 2007 non-responsive because the amended claims were directed to the non-elected specie of Fig. 3. Subsequently, the current second petition was filed requesting the amendment filed on Jun. 27, 2007 be entered and the election of species be withdrawn as requested in the first petition. In addition, the applicant also filed another amendment to substantively amend independent claims 1, 38 and 42 and pointed out the added limitations define over the prior art references. After consideration of the amendment of Nov. 20, 2007, the examiner found the amended independent claims 1, 38 and 42 are allowable. The examiner also rejoined and allowed the non-elected claims as indicated in the Notice of Allowance mailed Feb. 27, 2008.

After a careful study of the entire prosecution history, the relief requested in the first petition of May 29, 2007 has occurred when the examiner withdrew the restriction requirement in the Notice of Allowance and allowed all claims 1-59. With regard to the second petition of Nov. 20, 2007, the relief requested became moot because the applicant has submitted a new amendment on Nov. 20, 2007. The examiner has entered that new amendment and allowed all claims as indicated in the Notice of Allowance mailed Feb. 27, 2008.

Conclusion

In view of the prosecution record of this application, the examiner has withdrawn the restriction requirement of Oct. 10, 2006 and allowed all claims as amended Nov. 20, 2007. The petitions of May 29, 2007 and Nov. 20, 2007 are considered moot and dismissed.

The application is being forwarded to the Office of Publications waiting for payment of issue fee. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITIONS DISMISSED AS MOOT.

Frederick R. Schmidt, Director
Technology Center 3700

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Paper No.

SCHWEGMAN, LUNDBERG, WOESSNER &
KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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Technology Center 2100

In re Application of:
Gary Logston
Application No. 10/765,629
Filed: January 26, 2004
For: METHOD AND APPARATUS FOR BALANCING DISTRIBUTED APPLICATIONS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed October 19, 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 signer of the petition, Robert F. Gazdzinski is not appointed as an attorney or agent of record. Therefor he is not authorized to act on behalf of the attorneys or record, nor can he effect a change of address.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

All future communications from the Office will be directed to the above-listed address until otherwise notified by applicant.

Stewart Levy for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: GARDZINSKI & ASSOCIATES
Suite 375
11440 West Bernardo Court
San Diego, CA 92127

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FOUR EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Luzaich et al.	:	
Application No. 10/765,632	:	ON PETITION
Filed: January 26, 2004	:	
Attorney Docket No. 693.02	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 2, 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 and payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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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	:	
Helt et al.	:	
Application No. 10/765,634	:	DECISION ON PETITION
Filed: January 27, 2004	:	
Attorney Docket No. TIR 2748,2837	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1050.00 extension of time fee submitted with the petition on December 7, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3744 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CONLEY ROSE, P.C.
5601 GRANITE PARKWAY, SUITE 750
PLANO, TX 75024

Mail Date: 04/21/2010

Applicant	: Robert W. Helt	: DECISION ON REQUEST FOR
Patent Number	: 7600694	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/765,634	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1418** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Richard C. Emery
4189 Lakewood Avenue
White Bear Lake, MN 55110-3925

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OFFICE OF PETITIONS

In re Application of
Leslie A. Beben
Application No. 10/765,639
Filed: January 27, 2004
Attorney Docket No. COM002USPT01

DECISION ON REQUEST 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 16, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by, Richard C. Emery, the sole attorney of record.

Richard C. Emery has been withdrawn as attorney of record; therefore, applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole inventor, Leslie A. Beben, at the address indicated below.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: David Bucci

cc: Leslie A. Beben
5805 Brookland Drive
Sumter, SC 29154

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DIW A4-07

LESLIE A. BEBEN
5805 BROOKLAND DRIVE
SUMTER SC 29154

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OFFICE OF PETITIONS

In re Application of	:	
Leslie A. Beben	:	
Application Number: 10/765639	:	ON PETITION
Filing Date: 01/27/2004	:	
For: APPARATUS FOR PERICARDIAL	:	
AUGMENTATION	:	

This is a decision in reference the letter filed on 9 February, 2007, asserting a timely response was made to the non-final Office action mailed on 8 August, 2005. The letter is treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

On 8 August, 2005, a non-final Office action was mailed, which set a three (3) month shortened statutory period for reply. No response having been received, the application was held abandoned on 9 November, 2005. Notice of Abandonment was mailed on 15 September, 2006.

Petitioner asserts that a timely response to the non-final Office action was filed by USPS Express Mail Post Office to Addressee Service on 4 November, 2005, but was not received by the USPTO. In support, petitioner has provided a copy of the Express Mail customer label.

> 37 CFR 1.10(e) states that 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 does not meet the requirements of items (2) or (3), above. In particular, petitioner has not provided a copy of the response allegedly deposited via USPS Express Mail Post Office to Addressee service on 4 November, 2005. Furthermore, in the absence of a copy of the response, it cannot be determined that the Express Mail number was placed on the correspondence before it was mailed to the USPTO.

As petitioner has not provided sufficient evidence that a response to the non-final Office action was timely mailed to the USPTO, the petition to withdraw the holding of abandonment must

be dismissed. However, such dismissal is without prejudice to reconsideration pending submission of a copy of the reply allegedly timely filed, showing that the Express Mail number was placed upon the reply prior to the reply being deposited in Express Mail Post Office to Addressee Service to the USPTO.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

ALTERNATIVE VENUE

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$750.00 for a small entity;**

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $750.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact

the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

A copy of the form for filing a petition under 37 CFR 1.137(b) and the current fee schedule are enclosed for petitioner's reference.

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
Fee Schedule

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

REVISED FEE SCHEDULE

H.R. 4818, the Consolidated Appropriations Act, 2005 (Consolidated Appropriations Act) was signed by the President and enacted into law on December 8, 2004 (Public Law 108-447). The Consolidated Appropriations Act revises certain patent application and maintenance fees; provides separate fees for a basic filing fee, a search fee, and an examination fee; and requires an additional fee for any patent application whose specification and drawings exceed 100 sheets of paper (application size fee). In addition, the trademark application fee, per class, is revised if submitted by paper or electronically using the Trademark Electronic Application System (TEAS).

Notices will be published in the *Federal Register* and in the *Official Gazette of the United States Patent and Trademark Office* to provide additional information.

Any fee amount paid on or after December 8, 2004 must be paid as shown in the revised fee schedule, which reflects when the old filing fees still apply. However, fee amounts paid on or after the following dates for the fees below are subject to the revised fee schedule:

- January 31, 2005, for 37 CFR 2.6(a)(1)(i) and (ii); and
- February 1, 2005, for 37 CFR 1.492(b)(1), (b)(2), and (c)(1).

The fee schedule is available on our Web site at *www.uspto.gov*. The most up-to-date fee amounts and information, as well as the complete listing and description of fees, are also available on our Web site. Any future changes to the fees will be posted to the Web site. If you have any questions related to patents and trademarks, please call the USPTO Contact Center at (703) 308-4357 or (800) 786-9199, or by fax at (703) 305-7786.

Jo-Anne Barnard

Jo-Anne Barnard
Chief Financial Officer and
Chief Administrative Officer

Fee Code	37 CFR	Description	Fee	Small Entity Fee (if applicable)
Patent Maintenance Fees				
1551/2551	1.20(e)	Due at 3.5 years	900.00	450.00
1552/2552	1.20(f)	Due at 7.5 years	2,300.00	1,150.00
1553/2553	1.20(g)	Due at 11.5 years	3,800.00	1,900.00
	1.20(h)	Surcharge - Late payment within 6 months	130.00	65.00
1557	1.20(i)(1)	Surcharge after expiration - Late payment is unavoidable	700.00	
1558	1.20(i)(2)	Surcharge after expiration - Late payment is unintentional	1,640.00	
Miscellaneous Patent Fees				
1801/2801	1.17(e)	Request for Continued Examination (RCE) (see 37 CFR 1.114)	790.00	395.00
1808	1.17(i)	Processing fee, except in provisional applications	130.00	
1803	1.17(i)	Request for voluntary publication or republication	130.00	
1802	1.17(k)	Request for expedited examination of a design application	900.00	
1804	1.17(n)	Request for publication of SIR - Prior to examiner's action	920.00*	
1805	1.17(o)	Request for publication of SIR - After examiner's action	1,840.00*	
1806	1.17(p)	Submission of an Information Disclosure Statement	180.00	
1807	1.17(q)	Processing fee for provisional applications	50.00	
1809/2809	1.17(r)	Filing a submission after final rejection (see 37 CFR 1.129(a))	790.00	395.00
1810/2810	1.17(s)	For each additional invention to be examined (see 37 CFR 1.129(b))	790.00	395.00
Post Issuance Fees				
1811	1.20(a)	Certificate of correction	100.00	
1812	1.20(c)(1)	Request for ex parte reexamination	2,520.00	
1813	1.20(c)(2)	Request for inter partes reexamination	8,800.00	
1821/2821	1.20(c)(3)	Reexamination independent claims in excess of three	200.00	100.00
1822/2822	1.20(c)(4)	Reexamination claims in excess of 20	50.00	25.00
1814/2814	1.20(d)	Statutory disclaimer	130.00	65.00
Patent Extension of Time Fees				
1251/2251	1.17(a)(1)	Extension for response within first month	120.00	60.00
1252/2252	1.17(a)(2)	Extension for response within second month	450.00	225.00
1253/2253	1.17(a)(3)	Extension for response within third month	1,020.00	510.00
1254/2254	1.17(a)(4)	Extension for response within fourth month	1,590.00	795.00
1255/2255	1.17(a)(5)	Extension for response within fifth month	2,160.00	1,080.00
Patent Appeals/Interference Fees				
1401/2401	41.20(b)(1)	Notice of appeal	500.00	250.00
1402/2402	41.20(b)(2)	Filing a brief in support of an appeal	500.00	250.00
1403/2403	41.20(b)(3)	Request for oral hearing	1,000.00	500.00
Patent Petition Fees				
1462	1.17(f)	Petitions requiring the petition fee set forth in 37 CFR 1.17(f) (Group I)	400.00	
1463	1.17(g)	Petitions requiring the petition fee set forth in 37 CFR 1.17(g) (Group II)	200.00	
1464	1.17(h)	Petitions requiring the petition fee set forth in 37 CFR 1.17(h) (Group III)	130.00	
1451	1.17(j)	Petition to institute a public use proceeding	1,510.00	
1452/2452	1.17(l)	Petition to revive unavoidably abandoned application	500.00	250.00
1453/2453	1.17(m)	Petition to revive unintentionally abandoned application	1,500.00	750.00
1454	1.17(t)	Acceptance of an unintentionally delayed claim for priority	1,370.00	
1455	1.18(e)	Filing an application for patent term adjustment	200.00	
1456	1.18(f)	Request for reinstatement of reduced term	400.00	
1457	1.20(j)(1)	Extension of term of patent	1,120.00	
1458	1.20(j)(2)	Initial application for interim extension (see 37 CFR 1.790)	420.00	
1459	1.20(j)(3)	Subsequent application for interim extension (see 37 CFR 1.790)	220.00	

* Reduced by basic filing fee paid.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

Fee Code	37 CFR	Description	Fee	Small Entity Fee (if applicable)
PCT Fees - National Stage				
1631/2631	1.492(a)	Basic National Stage Fee	300.00	150.00
1641/2641	1.492(b)(1)	National Stage Search Fee - U.S. was the ISA	100.00	50.00
1642/2642	1.492(b)(2)	National Stage Search Fee - search report prepared and provided to USPTO	400.00	200.00
1632/2632	1.492(b)(3)	National Stage Search Fee - all other situations	500.00	250.00
1643/2643	1.492(c)(1)	National Stage Examination Fee - U.S. was IPEA, and all claims satisfy PCT Article 33(1)-(4)	100.00	50.00
1633/2633	1.492(c)(2)	National Stage Examination Fee - all other situations	200.00	100.00
1614/2614	1.492(d)	Claims - extra independent (over three)	200.00	100.00
1615/2615	1.492(e)	Claims - extra total (over 20)	50.00	25.00
1616/2616	1.492(f)	Claims - multiple dependent	360.00	180.00
1681/2681	1.492(j)	National Stage Application Size Fee - for each additional 50 sheets	250.00	125.00
1617/2617	1.492(h)	Oath or declaration after 30 months from priority date	130.00	65.00
1618	1.492(i)	English translation after 30 months from priority date	130.00	
PCT Fees - International Stage				
1601	1.445(a)(1)	Transmittal fee	300.00	
1602	1.445(a)(2)	PCT search fee - no prior U.S. application filed under 35 USC 111(a)	1,000.00	
1603	1.445(a)(2)	PCT search fee - prior U.S. application filed under 35 USC 111(a)	300.00	
1604	1.445(a)(3)	Supplemental search fee per additional invention	1,000.00	
1605	1.482(a)(1)	Preliminary examination fee - U.S. was the ISA	600.00	
1606	1.482(a)(1)	Preliminary examination fee - U.S. was not the ISA	750.00	
1607	1.482(a)(2)	Supplemental examination fee per additional invention	600.00	
1619		Late payment fee	VARIABLE	
1620		Confirmed precautionary designation - confirmation portion	52.00*	
1621		Transmitting application to Intl. Bureau to act as receiving office	300.00	
1624		Confirmed precautionary designation - designation portion	104.00*	
PCT Fees to WIPO or EPO**				
1701		International filing fee (first thirty pages) - PCT Easy	1,053.00	
1702		International filing fee - (first thirty pages)	1,134.00	
1703		Supplemental international filing fee (for each page over thirty)	12.00	
1704		International search (EPO)	1,920.00	
1705		Handling fee	162.00	
1708		International CD applications	4,800.00	
Patent Enrollment Fees				
9001	1.21(a)(1)(i)	Application fee (non-refundable)	40.00	
9003	1.21(a)(2)	Registration to practice or grant limited recognition under § 11.9(b) or (c)	100.00	
9004	1.21(a)(3)	Reinstatement to practice	40.00	
9005	1.21(a)(4)	Certificate of good standing as an attorney or agent	10.00	
9006	1.21(a)(4)	Certificate of good standing as an attorney or agent, suitable for framing	20.00	
9010	1.21(a)(1)(ii)(A)	For test administration by commercial entity	200.00	
9011	1.21(a)(1)(ii)(B)	For test administration by the USPTO.	450.00	
9012	1.21(a)(5)(i)	Review of decision by the Director of Enrollment and Discipline under § 11.2(c)	130.00	
9013	1.21(a)(5)(ii)	Review of decision of the Director of Enrollment and Discipline under § 11.2(d)	130.00	
9014	1.21(a)(10)	Application fee for person disciplined, convicted of a felony or certain misdemeanors	1,600.00	

* PCT fee codes 1620 and 1624 only apply to international applications filed prior to January 1, 2004.

** WIPO and EPO fees subject to periodic change due to fluctuations in exchange rate. Refer to the *Official Gazette of the United States Patent and Trademark Office* for current amounts.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/27/05

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 10/765644 6818981

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:

Amendment removes types of typographical errors only. No change of scope is noted.

SPE — **Art Unit** 2823

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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www.uspto.gov

Paper No.

Honeywell International Inc.
Law Department, Patent Services
101 Columbia Road
Morristown, NJ 07962

COPY MAILED

JUN 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Rohrbach et al.	:	
Application No. 10/765,649	:	DECISION ON
Filed: January 26, 2004	:	PETITION
Atty Docket No. HO1-0010	:	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.183 TO SUSPEND OR WAIVE THE REQUIREMENTS OF 37 C.F.R. § 1.181(f)," filed May 5, 2003, in the above-identified application.

To the extent that the instant petition requests withdrawal of the holding of abandonment in application No. 09/566,034, the petition is **dismissed as inappropriate**.

A request for withdrawal of the holding of abandonment (or revival of application No. 09/566,034) is by way of petition directed to application No. 09/566,034. Petitioner cannot file a paper in application No. 10/765,649 requesting relief in the instant case and in the parent case. A separate paper must be filed in the parent application, requesting whatever relief is sought in the parent application. See 37 C.F.R. § 1.4.

To the extent that the instant petition requests withdrawal of the PTO's holding that at the time of the filing the instant application lacked copendency with Application No. 09/566,034, the petition under § 1.183 is **DISMISSED**.

Applicants are given **TWO (2) MONTHS** from the mail date of this decision to respond to this decision. This period is not extendable. See § 1.181(f).

Petitioner objects to the Examiner's conclusion set forth in the Office action of December 7, 2004 (page 2, 1st paragraph) that the instant application may not claim priority as a continuation on parent application No. 09/566,034 because the applications lack copendency. Specifically, the parent application became abandoned December 1, 2003 for failure to file an appeal brief; however, the instant application was not filed until January 26, 2004. Petitioner contends that copendency was maintained by virtue of the filing of an extension of time on January 26, 2004.

A review of the record, in light of petitioner's argument, confirms that the applications do lack copendency.

MPEP 201.06(c):

> If an extension of time is necessary to establish continuity between the prior application and the continuing application filed under 37 CFR 1.53(b), the petition for an extension of time must be filed as a separate paper directed to the prior nonprovisional application. Under 37 CFR 1.136(a)(3), an authorization to charge all required fees, fees under 37 CFR 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time for its timely submission. A continuing application filed under 37 CFR 1.53(b) is a new application which is assigned a new application number and filing date and is ** maintained separately from the file of the prior application. The filing of a continuing application is not a paper directed or placed in the file of the prior application and is not a "reply" to the last Office action in the prior application. Thus, a petition for an extension of time and the fee set forth in 37 CFR 1.17 are required to be filed as a separate paper in the prior application. Any petition for an extension of time directed to the prior application must be accompanied by its own certificate of mailing under 37 CFR 1.8 (if mailed by first class mail) or under 37 CFR 1.10 (if mailed by Express Mail), if the benefits of those rules are desired.

A cover letter requesting an extension of time was filed in this application. However, the record supports a conclusion that no extension of time was filed as a separate paper in prior application No. 09/566,034. It is undisputed that after the filing on September 30, 2003 of a notice of appeal in the parent application, no appeal brief was filed. Under the circumstances, the applications lack copendency.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (703) 872-9306
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

OIPE JC143
AUG 15 2005
PATENT & TRADEMARK OFFICE

DAC
IFW

PATENT
(780-99-014)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Ronald Paul Rohrbach

Application No.: 10/765,649

Filed: January 26, 2004

For: STAGED OIL FILTER INCORPORATING PELLETIZED BASIC CONDITIONER

Group Art Unit: 1724

Examiner: Ivars C. Cintins

I hereby certify that the attached correspondence is being transmitted by First Class mail to the Commissioner for Patents, Alexandria, Virginia 22313-1450, on August 12, 2005.

Lori Bacon

Lori Bacon

RESPONSE TO DECISION ON PETITION

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

In response to the Decision on Petition mailed June 20, 2005 with regard to the above-identified matter.

Applicant has filed a petition to revive U.S. Serial No. 09/566,034. A copy of which is annexed hereto.

If there are any charges due with respect to this response or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

Christopher C. Boehm
Registration No. 41,624

August 12, 2005
Cantor Colburn, LLP
201 W. Big Beaver Rd., St. 370
Troy, MI 48084
248 524 2300
248 524 2700 (fax)

OIPE JC143
AUG 15 2005
PATENT & TRADEMARK OFFICE

August 12, 2005

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: United States Patent Application
Entitled: Staged Oil Filter Incorporating Pelletized Basic Conditioner
Serial No.: 10/765,649
Filed: January 26, 2004
Attorney Docket: 780-99-014

Sir:

We enclose herewith:

[X] Transmittal Letter
[X] Response to Decision on Petition
[X] 2 Acknowledgment Postcards

The Commissioner is hereby authorized to charge payment of the fees associated with this communication or credit any overpayment to Deposit Account No. 06-1130.

Applicant hereby petitions under 37 CFR 1.136 and other applicable rules to have the response period extended the number of months necessary to render the attached communication timely in the event a petition is required.

Respectfully submitted,

Christopher C. Boehm
Reg. No. 41,624

I hereby certify that this paper is being deposited with the United States Postal Service First Class mail, addressed to: Mail Stop Petition Commissioner for Patents, Alexandria, VA 22313-1450, on August 12, 2005.

Lori Bacon

Lori Bacon

COPY

(Practitioner's Docket No. 780-99-014/ HO1-0010

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PATENT

OIPE JC13
AUG 1 5 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Rohrbach et al.

Serial No.: 09/566,034

Filed: May 8, 2000

For: STAGED OIL FILTER INCORPORATING PELLETIZED BASIC CONDITIONER

Group Art Unit: 1724

Examiner: Cintins, Ivars C.

I hereby certify that the attached correspondence is being transmitted First Class Mail to Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450 Alexandria, Virginia 22313-1450, on August 10, 2005.

Lori Bacon
Lori Bacon

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

COPY BEST AVAILABLE COPY

REMARKS

The sole purpose of the instant Petition is to revive the instant application (Serial Number 09/566,034) in order to establish copendency for the currently pending continuation application filed on January 26, 2004 having serial number 10/765,649.

The instant application became abandoned on December 1, 2003 and the documents submitted with serial number 10/765,649 included a two-month extension of time. Nevertheless, applicant requests the instant petition be granted in order to establish copendency between U.S. Serial Nos. 09/566,034 and 10/765,649. In addition, and if necessary, applicants also include herewith a request for a two month extension of time in order to establish copending with the aforementioned applications.

If for any reason the Examiner feels that consultation with Applicants' attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call Applicants' attorney at the telephone number listed below.

If there are any charges due with respect to this response or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

Christopher C. Boehm
Registration No. 41,624

August 10, 2005
Cantor Colburn, LLP
201 W. Big Beaver Rd., St. 370
Troy, MI 48084
248 524 2300
248 524 2700 (fax)

OIPE JC143
AUG 1 5 2005
PATENT & TRADEMARK OFFICE

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PTO/SB/64 (07-05)
Approved for use through 07/31/2006. 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 UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) 780-99-014

COPY

First named inventor: Ronald Paul Ronbach

Application No.: 09/566,034 Art Unit: 1724

Filed: 05/08/2000 Examiner: Cintins, Ivars C.

Title: STAGED OIL FILTER INCORPORATING PELLETIZED BASIC CONDITIONER

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 $ 1330.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of the filing of a continuing application under 37 CFR 1.53(b) (identify type of reply):

☑ has been filed previously on 01/26/04.
☐ 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.

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: 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.

Signature	08/10/05 Date
Christopher C. Boehm Typed or printed name	41,624 Registration Number, if applicable
201 West Big Beaver Road, Suite 370 Address	(248) 524-2300 Telephone Number
Troy, MI 48084 Address	

Enclosures: ☑ Fee Payment Authorization to charge Deposit Account No. 06-1130

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

08/10/05 Date	Lori Bacon Signature
	Lori Bacon Typed or printed name of person signing certificate

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) (Large Entity)	Docket No. 780-99-014

In Re Application Of: **Rohrbach et al.**

OIPE JC148 AUG 1 5 2005 PATENT & TRADEMARK OFFICE

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/566,034	May 8, 2000	Cintins, Ivars C.		1724	

Invention: **STAGED OIL FILTER INCORPORATING PELLETIZED BASIC CONDITIONER**

COPY

BEST AVAILABLE COPY

COMMISSIONER FOR PATENTS:

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the Office Action of **June 25, 2003** (*Date*) above-identified application.

The requested extension is as follows (check time period desired):

☐ One month ☒ Two months ☐ Three months ☐ Four months ☐ Five months

from: **November 25, 2003** (*Date*) until: **January 25, 2004** (*Date*)

The fee for the extension of time is **$450** and is to be paid as follows:

☐ A check in the amount of the fee is enclosed.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **06-1130**

☒ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. **06-1130**

☐ Payment by credit card. Form PTO-2038 is attached.

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.

Signature

Dated: **August 10, 2005**

Christopher C. Boehm
Reg. No. 41,624
Cantor Colburn LLP
(248) 524-2300
(248) 524-2700 fax

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on **August 10, 2005**. (*Date*)

Signature of Person Mailing Correspondence

Lori Bacon

Typed or Printed Name of Person Mailing Correspondence

cc:

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

FINA TECHNOLOGY, INC.
P.O. BOX 674412
HOUSTON, TX 77267-4412

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MAR 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
David J. Rauscher, et. al.	:	
Application No. 10/765,688	:	ON PETITION
Filed: January 27, 2004	:	
Attorney Docket No. COS 852 (31223/79831)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2006, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed June 15, 2004. A Notice of Abandonment was mailed on March 10, 2005.

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.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature of William D. Jackson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence 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 an executed Oath/Declaration along with the $130 surcharge; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: William D. Jackson
5400 LBJ Freeway, Suite 1200
Dallas, TX 75240

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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KEVIN J. MORIARTY
PATENT DEPARTMENT
DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265-8098

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Dirk Weichholdt	:	
Application No. 10/765,696	:	ON PETITION
Filed: January 27, 2004	:	
Attorney Docket No. 09229-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 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 November 1, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 2, 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; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed July 12, 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 3600, Art Unit 3671 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS MN 55402-0902

In re Application of:		
Klinkert, Deborah A.et al	:	
Appl. No.: 10/765,708	:	DECISION ON PETITION
Filed: Jan. 27, 2004	:	
Attorney Docket No. 20067.0021US01	:	
For: EXHAUST ASSEMBLY		

This is a decision on the petition filed on Dec. 18, 2007 by which petitioners request supervisory review and withdrawal of the finality of the office action dated Nov. 21, 2007. The petition is considered pursuant to 37 CFR § 1.181, and no fee is required.

The petition is dismissed.

A review of the relevant prosecution history shows that the applicant filed a RCE on Oct. 31, 2007 with amendments to dependent claims 3, 4 and independent claim 17 and with the addition of new dependent claims 22-24. The RCE was properly filed in accordance with the 35 U.S.C. § 132(b) and MPEP § 706.07(h). On Nov. 21, 2007, the examiner issued a first Office action final rejection to the RCE. The examiner finally rejected all pending claims 1, 3, 4, 6-8, 10-15 and 17-24 under applicable sections of 35 U.S.C. § 102 and §103 based on the references to Pribil (U.S. 1,530,324), Kazokas (U.S. 3,061,416) and design choice.

On Dec. 18, 2007, the petitioner filed the current petition requesting supervisory review of the propriety of the final rejection and withdrawal of the finality of the office action dated Nov. 21, 2007 pursuant to MPEP § 706.07(d) and issuance of a non-final office action. The petitioner is of the opinion that the first Office action final rejection of Nov. 21, 2007 was improper under MPEP § 706.07(b), claims filed in the amendment of Oct. 31, 2007 changed the scope of the claims from the previously filed claims so that they are not drawn to the same invention, and the claims presented on Oct. 31, 2007 could not have been finally rejected on the grounds and art of record in the next office action if they had been entered in the application earlier under 37 CFR § 1.114. Petitioner has noted that the amended independent claim 17 adds the limitation "at least one of the rings having generally circular inner surface". In addition, it has been noted that new dependent claims 22-24 have been added, in which claim 22 includes the additional limitation added to claim 17, and claims 23 and 24 include the additional limitation "each ring is in a plane perpendicular to the length of the tubular member". On November 21, 2007, the Examiner issued a first Office action that was made final.

Analysis of Application Record

In the earlier final rejection of Sep. 17, 2007, claims 1, 3, 4, 6, 11-13 and 21 were rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Pribil (U.S. 1,530,324). Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Pribil in view of Kazokas (U.S. 3,061,416). Claims 7, 8, 10, 14-15 and 18-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Pribil in view of design choice. In response to the final rejection, on Oct. 31, 2007 the applicant filed the current RCE with an amendment to amend the independent claim 17 and added dependent claims 22-24. The amendment submitted added additional dependent claims 22-24 and the limitation "at least one of the rings having generally circular inner surface" to claim 17. Apparently, the claims as amended in the amendment of Oct. 31, 2007, fails to define over the prior art references. The first Office action final rejection was issued on Nov. 21, 2007. This final rejection is based on the same prior art patents under the same applicable statutes of 35 USC § 102(b) and §103 with the contents substantially the same as the previous final rejection mailed Sep. 17, 2007.

Petitioner opines that the amendment would not have been properly finally rejected on the grounds and art of record in the next Office action if they have been entered in the earlier application, because neither "at least one of the rings having generally circular inner surface" nor "each ring being in a plane perpendicular to the length of the tubular member" has been disclosed or taught in the Pribil reference (U.S. Patent No. 1,530,324). This line of argument is not convincing because the final rejection of Nov. 21, 2007 was based on the same prior art patents under the same applicable statutes of 35 U.S.C. 102(b) and 103 with the contents substantially the same as the previous final rejection mailed Sep. 17, 2007. This clearly shows the amendment filed with the RCE on Oct. 31, 2007 is directed to the same invention as claimed previously.

Decision

Based on the analysis of record, when the examiner promulgated the first Office action final rejection of Nov. 21, 2007, the conditions set forth in MPEP § 706.07(b)[1] were met. In particular, the amended and added claims in the amendment of Oct. 31, 2007, in fact, are directed to the same invention as the claims in the earlier amendment filed on Aug. 29, 2007 as indicated by the scope of the claims and the contents of the rejections. The claims in the amendment of Oct. 31, 2007 would have been properly finally rejected on the same grounds and art of record in the next Office action if they had been filed earlier. Therefore, under MPEP § 706.07(b) the first action final rejection of Nov. 21, 2007 is deemed proper.

---

[1] **706.07(b) Final Rejection, When Proper on First Action [R-1]**
The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. A first Office action in a continuing or substitute application may not be made final if it contains a new ground of rejection necessitated by the amendments to 35 U.S.C. 102 (e) by the Intellectual Property and High Technology Technical Amendments of 2002 (Pub. L. 107-273, 116 Stat. 1758 (2002)). However, it would not be proper to make final a first Office action in a continuing or substitute application where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of new matter was raised. Further, it would not be proper to make final a first Office action in a continuation-in-part application where any claim includes subject matter not present in the earlier application. A request for an interview prior to first action on a continuing or substitute application should ordinarily be granted.

For the foregoing reasons it appears that the examiner did not abuse his discretion, or act in an arbitrary or capricious manner, in making the Nov. 21, 2007 Office action final. Therefore, there is no basis for granting any of the relief requested.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3748 pending the filing of a proper reply to the final rejection. See relevant provisions of 37 CFR §§ 41.31, 1.113, 1.114 and 1.116. Petitioner is reminded that the period for filing such reply remains as set forth in the final rejection notwithstanding the filing of the instant petition. Petitioner may file a request for reconsideration of this decision, without fee. However, such request must be filed within two months of the date of this decision. See 37 CFR § 1.181(f). Should petitioner have any further questions, he is invited to contact Henry Yuen, TC 3700 SPRE, at 571-272-4856.

PETITION DISMISSED

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

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AUG 24 2009

OFFICE OF PETITIONS

In re Application of
Gilad Odinak
Application No. 10/765,720
Filed: January 26, 2004
Attorney Docket No. INTL-1-1039

DECISION ON PETITION

This is a decision on the petition, filed June 1, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Final Office action of August 18, 2008, which set a three (3) month period for reply. One month (1) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, a reply was due on or before December 18, 2008.

Office record show a timely reply was received on December 17, 2008, which includes the following papers: Notice of Appeal, Pre-Appeal Brief Request and one month (1) extension of time.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Final Office action of August 18, 2008 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 2617 for appropriate action in the normal course of business on the reply received on December 17, 2008.

Irvin Dingle
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

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OCT 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Mikko P. Inkinen :
Application Number: 10/765723 :
Filing Date: 01/26/2004 : ON PETITION
Attorney Docket Number: 944-005.028 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on September 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on August 16, 2008, for failure to timely submit corrected drawings in response to the Notice of Allowability mailed on May 15, 2008, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on September 9, 2008.

Receipt of the corrected drawings filed on September 22, 2008, 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 application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The 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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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MAY 03 2007

OFFICE OF PETITIONS

In re Application of Mirme :
Application No. 10/765,740 : Letter Regarding PTA
Filing Date: January 27, 2004 :
Attorney Docket No. 3619.14US01 :

This letter is in response to the "Patent Term Adjustment Letter of Candor and Good Faith," filed December 5, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is 53 days.

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 53 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 1, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 84 days.

The Office initially determined a patent term adjustment of 84 days based on an adjustment for PTO delay of 123 days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. 1.703(a)(1), and reduced by 3 days and 36 days for applicant delay pursuant to 37 C.F.R. 1.704(b).

A review of the record reveals that Applicants should have been assessed an additional delay of 31 days. A reply to an Office action was filed September 30, 2005. An IDS was filed on October 31, 2005. The IDS was not expressly requested by the examiner and did not include a 37 CFR 1.704(d) statement.

Per 37 CFR 1.704(c)(8), the period of adjustment will be reduced when a supplemental reply or other paper is filed after a reply has been filed. The period of adjustment will start from the date after the submission of the first reply and will end on the date that the supplemental reply or other paper is filed. <u>This category does not apply to papers expressly requested by the examiner.</u>

MPEP 2732:

> 37 CFR 1.704(c)(8) establishes submission of a supplemental reply or other paper after a reply has been filed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of a supplemental reply or other paper (e.g., an information disclosure statement (IDS) or petition) after an initial reply was filed requires the Office to restart consideration of the initial reply in view of the supplemental reply or other paper, which will result in a delay in the Office's response to the initial reply. 37 CFR 1.704(c)(8) does not apply to a supplemental reply or other paper that was expressly requested by the examiner. If an amendment is requested by an examiner, the examiner will have the paper processed so that it is included as part of an interview summary or examiner's amendment and not a separate paper for PALM to flag in the patent term adjustment calculation. 37 CFR 1.704(c)(8) also provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or such other paper was filed.

In view of the previous facts, the correct determination of PTA at the time of the mailing of the Notice of Allowance is 53 days (123 days of PTO delay reduced by 80 (31 + 3 + 36) days of applicant delay.

The instant letter was the result of the good faith and candor of applicant. Since the instant letter was only filed to advise the Office of an Office error, and not to increase the patent term adjustment, the $200.00 application fee under 37 C.F.R. 1.705(b) will not be charged to petitioner's deposit account.

The application file is being forwarded to the Office of Publications for issuance of the patent. The patent term adjustment shown on the patent (and in the Issue Notification mailed approximately three weeks prior to issuance) will include any additional patent term accrued pursuant to sections 1.702(a)(4) and 1.703(b).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Wednesday

PALM INTRANET

Date: 5/2/2007
Time: 19:27:11

PTA Calculations for Application: 10/765740			
Application Filing Date:	01/27/2004	PTO Delay (PTO):	123
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	39
Post-Issue Petitions:	0	Total PTA (days):	53
PTO Delay Adjustment:	-31		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	05/02/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		31	
43	11/01/2006	MAIL NOTICE OF ALLOWANCE			
42	11/01/2006	MAIL FORMAL DRAWINGS REQUIRED			
41	11/01/2006	MAIL EXAMINER'S AMENDMENT			
40	10/30/2006	ISSUE REVISION COMPLETED			
39	10/30/2006	FORMAL DRAWINGS REQUIRED			
38	10/30/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	10/30/2006	EXAMINER'S AMENDMENT COMMUNICATION			
36	10/30/2006	NOTICE OF ALLOWABILITY			
35	10/13/2006	NEW OR ADDITIONAL DRAWING FILED			
34	10/19/2006	DATE FORWARDED TO EXAMINER			
33	10/13/2006	AMENDMENT AFTER FINAL REJECTION		36	30
32	10/13/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	06/07/2006	MAIL FINAL REJECTION (PTOL - 326)			
29	06/01/2006	FINAL REJECTION			
28	12/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	01/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	03/23/2006	DATE FORWARDED TO EXAMINER			
25	03/16/2006	RESPONSE AFTER NON-FINAL ACTION		3	22
24	01/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	12/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	12/13/2005	MAIL NON-FINAL REJECTION			

21	12/12/2005	NON-FINAL REJECTION			
20	10/31/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	10/31/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
18	10/06/2005	DATE FORWARDED TO EXAMINER			
17	09/30/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
16	09/30/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
14	07/28/2005	MAIL RESTRICTION REQUIREMENT	123		-1
13	07/27/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
12	04/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	01/11/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	08/11/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	08/11/2004	CASE DOCKETED TO EXAMINER IN GAU			
8	06/11/2004	APPLICATION RETURN FROM OIPE			
7	06/11/2004	APPLICATION RETURN TO OIPE			
6	06/11/2004	APPLICATION DISPATCHED FROM OIPE			
5	06/14/2004	APPLICATION IS NOW COMPLETE			
4	03/10/2004	CLEARED BY OIPE CSR			
3	03/10/2004	CASE CLASSIFIED BY OIPE			
2	03/04/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/27/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. None

Robert D. Fish
Rutan & Tucker, LLP
14th Floor
611 Anton Blvd.
Costa Mesa CA 92626

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MAY 2 6 2004
OFFICE OF PETITIONS

In re Application of
Paul Silinger et al.
Application No. 10/765,782
Date Deposited: January 26, 2004
Attorney Docket No. H0002233 US - 4015
Title: INTERNAL HEAT SPREADER PLATING METHODS AND DEVICES

DECISION ON PETITION
UNDER 37 C.F.R. §1.10(E)

This is a decision on the petition under 37 C.F.R. §1.10(e), filed January 26, 2004, requesting that application number 10/765,782 be accorded a filing date of June 11, 2003.

The application was deposited on January 26, 2004, along with the instant petition. Petitioner has alleged that the application was first deposited on June 11, 2003. Petitioners have included a copy of the Express Mail Label having a number of EV406604014US[1]. Applicants request that the application be accorded a filing date of June 11, 2003. Petitioner has further submitted a declaration of facts from the paralegal who purportedly deposited this application with the USPS on June 11, 2003.

Regarding the Express Mail label, it is noted that the label contains a "date-in" of June 11, 2003.

1 The Utility Patent Application Transmittal sheet which was deposited with the present petition has been reviewed, and it is noted that it contains this same Express Mail label number.

Unfortunately both the Office's USPS Express Mail Finder Database computer program and the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) were inconclusive.

Judging by the date-in on the express mail label, it appears that the package was indeed deposited with the USPS on June 11, 2003.

Petitioner sets forth that on September 25, 2003, she first learned that the package had not been received by the Office. A petition was not filed at that time, however, as the paralegal who deposited the application with the USPS was on maternity leave, and "a petition under 37 C.F.R. 1.10…requires that a statement, signed by the person who deposited the documents with the USPS be included with the petition setting forth date and time of deposit… (petition, page 2)."

Unfortunately, this petition was filed over six months after the filing of the application, and the relevant regulation requires any petition under this section to be filed promptly. While it is understandable that employees take extended periods of leave at times, 37 C.F.R. §1.10(e)(1) cannot be waived without the filing of a petition under 37 C.F.R. §1.183.

Accordingly, the petition is DISMISSED.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.10(e)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. 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.

Any renewed petition may be submitted by mail[2], hand-delivery[3], or facsimile[4].

---

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.

See Request for Alert Concerning Submitted Petitions, 1282 *Official Gazette* (May 18, 2004) for further information on how to ensure that your submission is delivered to the undersigned.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The 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

cc: Sandra P. Thompson
Bingham McCutchen
600 Anton Blvd., 18th Floor
Costa Mesa, CA 92626

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Paper No. None

Sandra P Thompson
Bingham McCutchen LLP
Three Embarcadero Center
San Francisco CA 94111

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JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Paul Silinger et al. :
Application No. 10/765,782 :
Filing Date: June 11, 2003 :
Attorney Docket No. H0002233 US :
- 4015 :
Title: INTERNAL HEAT SPREADER :
PLATING METHODS AND DEVICES :

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.183

This is a decision on the renewed petition under 37 C.F.R. §1.183, filed June 8, 2004, requesting that 37 C.F.R. §1.10(e)(1) be waived so that application number 10/765,782 can be accorded a filing date of June 11, 2003.

The application was deposited on January 26, 2004. On March 18, 2004, Petitioner submitted a petition under 37 C.F.R. §1.10(e), where Petitioner alleged that the application was first deposited on June 11, 2003.

Although the original petition established that the application was deposited with the USPS on June 11, 2003, it was dismissed with the following rationale set forth:

> Unfortunately, this petition was filed over six months after the filing of the application, and the relevant regulation requires any petition under this section to be filed promptly. While it is understandable that employees take extended periods of leave at times, 37 C.F.R. §1.10(e)(1) cannot be waived without the filing of a petition under 37 C.F.R. §1.183.

With the instant petition, Petitioner has submitted a change of address and a request to have this section of the C.F.R. waived. The petition fee ($130) has been charged to Petitioner's Deposit Account, as authorized in the petition.

Accordingly, the petition is **GRANTED**, and 37 C.F.R. §1.10(e)(1) is hereby **WAIVED**.

The change of correspondence address has been entered and made of record.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination, for further processing with a filing date of June 11, 2003, and for the mailing of a corrected filing receipt.

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,782	06/11/2003	Paul Silinger	H0002233 US - 4018/H9925-	2472

62993 7590 12/31/2007
BUCHALTER NEMER
18400 VON KARMAN AVE.
SUITE 800
IRVINE, CA 92612

EXAMINER
VAN, LUAN V

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
12/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Mailed: 12-31-07

In re Application of	:	DECISION
Silinger et al.	:	DENYING
Serial No. 10/765,782	:	PETITION
Filed: June 11, 2003	:	
For: INTERNAL HEAT SPREADER PLATING	:	
METHODS AND DEVICES	:	

This is a decision on APPELLANT'S PETITION TO THE DIRECTOR UNDER 37 CFR 1.181, filed November 6, 2007.

Applicant filed an appeal brief on May 9, 2007, and a corrected brief on July 10, 2007, to which the examiner responded in an examiner's answer mailed September 6, 2007.

The instant petition was then timely filed on November 6, 2007 and is before the Director of Technology Center 1700 for consideration. The petition requests that the examiner's answer of September 6, 2007 be deemed to contain a "new grounds of rejection."

The petition is **DENIED** for the reasons below.

DECISION

As background, what constitutes a new grounds of rejection is discussed in MPEP 1207.03:

> There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection.

In the instant application, the final rejection (mailed November 13, 2006) includes, inter alia, a rejection under 35 USC 103(a) of claims 1-15 as being obvious over the admitted prior art in view of US Patent 4,772,371 to Lace et al. In making that rejection, the examiner stated that the admitted prior art arguably did not explicitly teach a horizontal sparger, and then stated that it would have been obvious to include a horizontal sparger in the admitted prior art device based upon the teachings of Lace et al.

The examiner's answer mailed September 6, 2007 repeats the above rejection. In the course of responding to applicant's arguments, the examiner's answer includes at page 12, first full paragraph, the statement that "it is further noted that since the examiner is not relying on the vertical spargers to meet the horizontal sparger of the instant claims, the plurality of shields 13 of Admitted Prior Art is not between the sparger and the cathode as stated in claim 15."

Applicant contends that this statement amounts to a new grounds of rejection. The petition notes that the statement above was not previously made, and further is not clear. Reference is made to the petition and Exhibit B for a complete statement of applicant's position.

The mere fact that a particular statement appears for the first time in an examiner's answer does not mean that the statement is necessarily a new grounds of rejection. Rather, the question is whether the examiner has changed the basic thrust of the rejection, so as to deny applicant a fair opportunity to respond to the rejection. See MPEP 1207.03, quoted above.

Under the standards set forth in the MPEP, the examiner's statement on page 12 cannot be considered to constitute a new grounds of rejection. The examiner relies upon the same references under the same statutory ground, and maintains the same 'basic thrust' of the rejection, namely that it would have been obvious to include a horizontal sparger in the admitted prior art device based on the teachings of Lace et al. Applicant has had ample opportunity to respond to the merits of this position, as witnessed by the arguments presented in the appeal brief against it.

The examiner's statement on page 12 appears to be simply an attempt to elaborate on why the proposed combination would meet the claim limitations with respect to the position of the shields. Both applicants' briefs and examiners' answers frequently raise some new points of argument as to why the claims are or are not patentable. This is permissible in an answer if the basic thrust of the rejection remains the same. Such is the case here.

10/765,782

As the examiner's answer does not contain a new grounds of rejection, the instant petition is **DENIED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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IRVINE CA 92612

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OFFICE OF PETITIONS

In re Application of	:	
Silinger et al.	:	
Application No. 10/765,782	:	ON PETITION
Filed: June 11, 2003	:	
Attorney Docket No. H0002233.33717 US-4018	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1050.00 extension of time fee submitted with the petition on August 7, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1795 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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PAULA CAMPBELL EVANS
PALMER & DODGE, LLP
111 HUNTINGTON AVENUE
BOSTON, MA 02199-7613

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OFFICE OF PETITIONS

In re Application of	:	
Patton et al.	:	
Application No. 10/765790	:	
Filing or 371(c) Date: 01/27/2004	:	
Attorney Docket Number:	:	
2035(301412)	:	ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment under 37 C.F.R. 1.181," filed March 28, 2008.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 23, 2007. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on June 24, 2007. A Notice of Abandonment was mailed October 19, 2007.

With the present petition, Applicant has demonstrated non-receipt of the Office action by a preponderance of the evidence[1].

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.

Power of Attorney and Correspondence Address

1. Power of Attorney

A review of Office records reveals that the Combined Declaration and Power of Attorney filed December 20, 2004, was not in fact a power of attorney. 37 CFR 1.32 defines a power of attorney as "a written document by which a principal authorizes one or more patent practitioners or joint inventors to act on his or her behalf." The Combined Declaration and Power of Attorney filed December 20, 2004 failed to authorize any patent practitioners of joint inventors to act on

[1] A review of Office records reveals that the Office action was inadvertently mailed to an incorrect correspondence address.

behalf of the inventors (principals). The Combined Declaration and Power of Attorney filed December 20, 2004 only identified a correspondence address and directed telephone calls to Paula Campbell Evans[2].

Office records also reveal that Applicant filed a document requesting this Office to include 10 patent practitioners to be recognized by the Office as being of record in this application; however, the document is unexecuted. Moreover, effective June 25, 2004, the associate power of attorney practice was eliminated. The Office no longer accepts a power of attorney signed by a principal to name an associate power of attorney. An appointment of an associate power of attorney filed on or after June 25, 2004 will not be accepted. MPEP 402.02.

2. Correspondence Address Change

Applicant filed a change of correspondence address on February 6, 2008. A review of Office records reveals that no power of attorney has been filed giving the person signing the change of correspondence address the authority to change the correspondence address. The applicable rule, 37 CFR 1.34, Acting in a representative capacity, states:

> When a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set forth his or her registration number, his or her name and signature. Further proof of authority to act in a representative capacity may be required.

However, the authority to represent a party before this Office does not extend, inter alia, to the authority to change the correspondence address. The MPEP further explains as follows:

> In accordance with 37 CFR 1.34, a paper filed by a registered patent attorney or agent in an application in which he or she is not of record must include his or her name and registration number with his or her signature. Acceptance of papers filed in patent applications and reexamination proceedings by registered attorneys and agents upon a representation that the attorney or agent is authorized to act in a representative capacity is for the purpose of facilitating replies on behalf of applicants in patent applications and, further, to obviate the need for filing powers of attorney in individual applications or patents when there has been a change in composition of law firms or corporate patent staffs. Interviews with a registered attorney or agent not of record will, in view of 35 U.S.C. 122, be conducted only on the basis of information and files supplied by the attorney or agent. A person acting in a representative capacity may not sign (A) a power of attorney (37 CFR 1.32(b)(4)), (B) a document granting access to an application (except where an executed oath or declaration has not been filed, and the patent practitioner was named in the papers accompanying the application papers - 37 CFR 1.14(c)), (C) a

[2] In a telephone conversation with Petitioner herein on or about April 29, 2008, Petitioner noted that page two (2) of the Combined Declaration and Power of Attorney filed December 20, 2004, appeared to have been omitted.

> change of correspondence address (except where an executed oath or declaration has not been filed, and the patent practitioner filed the application - 37 CFR 1.33(a)), (D) a terminal disclaimer (37 CFR 1.321(b)(1)(iv)), or (E) a request for an express abandonment without filing a continuing application (37 CFR 1.138(b)).

MPEP 402.

Once an executed oath/declaration has been filed, the MPEP 601.03 provides:

> Where a correspondence address has been established on filing of the application or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of an executed oath or declaration under 37 CFR 1.63 by any of the inventors), that correspondence address remains in effect upon filing of an executed oath or declaration under 37 CFR 1.63 and can only be subsequently changed pursuant to 37 CFR 1.33(a)(2). Under 37 CFR 1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a patent practitioner of record, (B) an assignee as provided for under 37 CFR 3.71(b), or (C) all of the applicants (37 CFR 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71. See 37 CFR1.33(a)(2).

A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise properly instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application will be referred to Technology Center Art Unit 1634 for re-mailing of the Office action and re-setting the period for reply.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Vijay Bahel	: DECISION ON REQUEST FOR
Patent Number	: 7606683	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/765,820	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1232** 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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 05/18/2010

Applicant : Vijay Bahel
Patent Number : 7606683
Issue Date : 10/20/2009
Application No : 10/765,820
Filed : 01/27/2004

: 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 **1321** 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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jm

Mailed : 8-15-06

In re application of	:	
Krajewski et al.	:	DECISION ON
Serial No. 10/765,822	:	PETITION
Filed : January 27, 2004	:	
For: EXTRUDED BIPOLAR PLATES		

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed April 19, 2006.

On April 19, 2006, a restriction requirement was made between Groups I and II with the examiner's reasoning that the two inventions are distinct due to differences of the placement of the flow channels and multiple channels provided for different purposes. Applicants traversed the restriction requirement in a response filed May 9, 2006. In their response, applicant argued that the groups are not distinct since both groups provide for multiple channels, Group I calls for the channels to be provided at outside edges of the bipolar plate, and Group II calls for the channels at opposite sides of the bipolar plates.

On May 9, 2006, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement the same as that stated in the response to the restriction requirement.

DECISION

Sections 806.05(j) of the MPEP states in part:

806.05(j) Related Products; Related Processes
To support a requirement for restriction between two or more related product inventions, or between two or more related process inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., separate classification, status in the art, or field of search. See MPEP § 808.02. See MPEP § 806.05(c) for an explanation of the requirements to establish two-way distinctness as it applies to inventions in a combination/subcombination relationship. For other related product inventions, or related process inventions, the inventions are distinct if
(A) the inventions as claimed do not overlap in scope, i.e., are mutually exclusive;
(B) the inventions as claimed are not obvious variants; and
(C) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 802.01.

The burden is on the examiner to provide an example to support the determination that the inventions are distinct, but the example need not be documented. If applicant either proves or provides convincing evidence that the example suggested by the examiner is not workable, the burden is on the examiner to suggest another viable example or withdraw the restriction requirement.

As an example, an intermediate product and a final product can be shown to be distinct inventions if the intermediate and final products are mutually exclusive inventions (not overlapping in scope) that are not obvious variants, and the intermediate product as claimed is useful to make other than the final product as claimed. Typically, the intermediate loses its identity in the final product. See also MPEP § 806.05(d) for restricting between combinations disclosed as usable together. See MPEP § 809 - § 809.03 if a generic claim or claim linking multiple products or multiple processes is present.

The examiner states that Group I and Group II differ in that Group I includes the anode and cathode flow channels being provided at outside edges of the first and second bipolar plates, and that these features are not present in Group II. Additionally, Group II has multiple channels for oxidant/fuel/coolant, which is not required by Group I.

Applicant has responded with the argument that both Groups I and II claim anode and cathode flow channels in the plural, and that Group I claims that the anode and cathode flow channels are provided at outside edges, and that Group II claims that these channels are at opposite sides of the bipolar plates.

As the examiner did not argue that the inventions are independent, and did not set forth a relationship between the groups such as combination-subcombination or species, it is assumed that they are related. As such, to show that related products are distinct according to 806.05(j), both a two-way distinctness and reasons for insisting on restriction are necessary. The inventions are distinct if they do not overlap in scope, they are not obvious variants, and are either not capable of use together or can have a materially different design, mode of operation, function, or effect. The differences pointed out by the examiner do not rise to a showing of distinctness. The placement of the flow channels at outside edges is similar in scope to the placement of the channels at opposite sides of the plates. Examiner's statement that multiple channels for oxidant/fuel/coolant is not provided for by Group I is not convincing as claim 3 provides flow channels for a cooling fluid, and claim 4 specifies flow channels through the middle portion of the plates, which is commensurate with the multiple channels provided by Group II.

Accordingly, the petition for withdrawal of the restriction requirement is **GRANTED.** The application is being forwarded to the examiner to rejoin the non-elected claims and preparing a new non-final office action addressing all pending claims.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

GENERAL MOTORS CORPORATION
300 RENAISSANCE CENTER
P.O. BOX 300
DETROIT, MI 48265-3000

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Patrick Petit	: DECISION ON REQUEST FOR
Patent Number	: 7610377	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/765,828	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1093** 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 0 2 2006
OFFICE OF PETITIONS

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

In re Application of	:	
Hongyhong Zhang et al	:	
Application No. 10/765,865	:	ON PETITION
Filed: January 29, 2004	:	
Attorney Docket No. 0756-7252	:	

This is a decision on the petition, filed August 1, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 26, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2813 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
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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Paper No. _____

Date : August 2, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Hongyong Zhang et al
Application No. :10/765,865
Filed :January 29, 2004

The above-identified application has been assigned Patent No. 7,091,111 and an issue date of August 15, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 15, 2006:

"All reference to Patent No. 7,091,111 to Hongyong Zhang et al of Japan for LASER PROCESSING METHOD appearing in the Official Gazette of August 15, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101

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NOV 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
BIOCE, Steve et al.	:	
Application No. 10/765,867	:	DECISION ON PETITION
Filed: January 15, 2004	:	TO WITHDRAW
Attorney Docket No. **1388-PPA01**	:	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 30, 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 Gary Eastman, the sole attorney of record. Gary L. Eastman has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Steve Buice at the address indicated below.

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 CT.
SAN DIEGO, CA 92130

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MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

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SEP 2 8 2005

Technology Center 2100

In re Application of:
YASUKAWA et al
Application No. 10/765,883
Filed: January 29, 2004
For: STORAGE CONTROL APPARATUS AND A CONTROL METHOD THEREOF

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on September 09, 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 September 09, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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EITAN LAW GROUP
C/O LANDONIP, INC.
SUITE 450
1700 DIAGONAL ROAD
ALEXANDRIA, VA 22314

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JAN 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Barkan, Yuval	:	
Application No. 10/765,936	:	DECISION ON PETITION
Filed: January 29, 2004	:	
Attorney Docket No. P-9488-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2617 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

YUVAL BARKAN
12 HABANIN STREET
KEFAR SIRKIN 49935
ISRAEL

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OFFICE OF PETITIONS

In re Application of

BARKAN, Yuval
Application No. 10/765,936
Filed: January 29, 2004
Attorney Docket No. **P-9488-US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 10, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MELF BURKEN**
12 HABENIN STREET
KFAR SIRKIN
ISRAEL 59935

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/5/09

Paper No.: ——

TO SPE OF : ART UNIT 2832

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/765944 Patent No.: 7135947B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: CORRECTION DOES NOT CHANGE THE SCOPE OF THE CLAIMS.

/E.E./ 06/09/2010

OK TO ENTER: /E.E./

PTO/SB/44 (01-09)
Approved for use through 02/28/2009. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,135,947

APPLICATION NO. : 10/765,944

ISSUE DATE : November 14, 2006

INVENTOR(S) : Klaus Gunter Engel

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 9, in Claim 1:
Line 6, "the minimum radius" should be -- the reduced radius --.

Column 10, in Claim 3:
Line 3, "said minimum radius" should be -- said reduced radius --.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Bereskin & Parr LLP/S.E.N.C.R.L., s.r.l.

40 King Street West

Toronto, Ontario, M5H 3Y2

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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LINIAK BERENATO & WHITE
6550 ROCK SPRING DRIVE, SUITE 240
BETHESDA, MD 20817

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OFFICE OF PETITIONS

In re Application of	:	
Tony M. Aram	:	
Application No. 10/765,950	:	DECISION ON REQUEST
Filed: January 29, 2004	:	TO WITHDRAW
Attorney Docket No. 4004-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: David Bucci

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Liniak, Berenato & White
Ste. 240
6550 Rock Spring Drive
Bethesda MD 20817

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MAY 1 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Baxter, Ralph W. Jr.	:	DECISION ON PETITION
Application No. 10/765,959	:	TO WITHDRAW
Filed: January 29, 2004	:	FROM RECORD
Attorney Docket No. 8200.709	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas P. Liniak.

Thomas P. Liniak has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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.

Denise Pothier for

David Bucci
Petitions Examiner
Office of Petitions

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In re Application of	: DECISION ON REQUEST
Akihiko Ikeda et al	: UNDER 37 CFR 1.97
Serial No: 10/765,959	: FOR CONSIDERATION
Filed: January 29, 2004	: OF INFORMATION
For: HYDRAULIC CLUTCH ACTUATOR FOR	: DISCLOSURE STATEMENT
LIMITED SLIP DIFFERENTIAL ASSEMBLY	: AFTER FINAL

The request under 37 CFR 1.97(d) for consideration of an information disclosure statement filed on May 16, 2006 after final has been:

(X) GRANTED.

( ) DENIED.

The request lacks:

( ) The required fee under 37 CFR 1.97(d)(2) and 1.17(p).

( ) A proper certification as specified in 37 CFR 1.97(e)(1) or 1.97(e)(2). 37 CFR 1.97(e)(1) requires statement to include that the **first** citation of the item by a foreign patent office in a counterpart foreign application was not made, in **any** communication from the foreign office, more than three months prior to the IDS filing.

The information disclosure statement has been placed of record in the file and will be considered by the examiner. See Federal Register 65 Fed. Reg. 54603 (September 8, 2000); Official Gazette 1238 Off. Gaz. Pat Office 77 (September 19, 2000) for rule changes fo 37 CFR 1.97.

Charles A. Marmor

Charles A. Marmor, SPE
Art Unit 3681
(571) 272-7095

IFW

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2001 Jefferson Davis Highway
Suite 1001, Crystal Plaza 1
Arlington, VA 22202

Tel: 703-415-0012
Fax: 703-415-0013
Email: rneifeld@Neifeld.com
Web: www.Neifeld.com

OIPE JC139
AUG 17 2004
PATENT & TRADEMARK OFFICE

TRANSMITTAL LETTER AND AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: Attorney Docket No.: X2YA0013U-US
Application Serial No.: 10/766,000
Filed: 1/29/2004
Title: Shielded Energy Conditioner
Inventor: ANTHONY et al.
Group Art Unit: Unknown
Examiner: Unknown

SIR:

Attached hereto for filing are the following papers:

1. Decision on Petition Under 37 CFR 1.183 Seeking Waiver of Requirements Under 37 CFR 1.98 and 1.52 (Filed in Application Serial No: 10/237,079, Neifeld Docket No: X2YA0010U-US; 5 Pages)

Our check in the amount of $0.00 is attached covering the required fees.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-2106. A duplicate copy of this sheet is enclosed.

8/17/04
Date

Richard A. Neifeld, Ph.D.
Registration No. 35,299
Attorney of Record

31518
PATENT TRADEMARK OFFICE

Printed: August 17, 2004 (8:28am)
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87304 RB

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OIPE JC139
AUG 17 2004
PATENT & TRADEMARK OFFICE

NEIFELD IP LAW, PC
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

Attorney Review of Decision: 8-2004

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AUG 10 2004

OFFICE OF PETITIONS

In re Application of
Anthony, A. et al.
Application No. 10/237,079
Filed: September 9, 2002
For: UNIVERSIAL ENERGY CONDITIONING INTERPOSER WITH CIRCUIT ARCHITECTURE
Attorney Docket No. X2YA0010U/US

DECISION ON PETITION UNDER 37 CFR 1.183 SEEKING WAIVER OF REQUIREMENTS UNDER 37 CFR 1.98 and 1.52

This is a response to a petition under 37 CFR 1.183 filed on April 22, 2004, concurrently with an Information Disclosure Statement (IDS). The § 1.183 petition requests waiver of the rules for Information Disclosure Statements under 37 CFR 1.98. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing a paper copy of each reference in each of 26 related applications where the references are being cited by Petitioner. The request for waiver is made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.183 petition also contains a request seeking permission to submit the same prior art submissions on compact disc which would require a waiver of 37 CFR 1.52(a) and (e).

The petition under 37 CFR 1.183 requesting relief to file a reduced number of paper copies of IDS references and to file them on compact disc is **GRANTED IN PART** to the extent set forth below.

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 26 U.S. applications relating to different aspects of an invention.

DecPet_X2YA0010UUS_040813 RB

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information material to patentability, which includes information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.183 - Special Treatment of Compact Disc

The petition states that the compact disc filed with the IDS is an additional copy of the paper references included with the IDS. It is not apparent from the petition why the Office needs to make available to every examiner in all 26 applications a second copy of each reference on compact disc. Accepting a second copy on compact disc of each reference places an additional burden on the Office. First, there is the burden to determine if the paper copy and the compact disc copy of the references are the same. If the two copies are not the same it raises questions about what the examiner considered in each application. Second, accepting the compact disc copy places a burden on the Office to maintain a copy as part of the Official record of the application. Finally, there is insufficient information in the petition evaluate the data formats and software requirements to determine how compatible the filing is with the Office's automated systems and procedures for maintaining records. Hence it is not clear why relief is required under § 1.183 if relief from filing a paper copy in each application is granted. Nor is it apparent on balance why the Office should accept the additional burden of having to process a second copy of the references on compact disc. In view of the relief granted below, no further discussion of the compact discs is required in this decision.

Petition under § 1.183 for a waiver of the rules for compact discs is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-121 and 600-122.

Paper copies: Petitioner notes that the instant application is one of about 24 bulk filing applications that have been filed in regard to a particular technology. Accordingly, Petitioner requests that one individual paper copy of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application.

Rather than be required to submit, via a paper copy, two cartons of foreign patent and non-patent literature references in each of 24 applications, Petitioner seeks to have:

(1) The concurrently filed single paper copy of each IDS citation fulfill the requirement for a paper copy in all 24 applications;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of the references to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from requiring a separately filed paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, and a copy of the Form 1449 (or equivalent).

Once past the initial IDS submission, the petition does not propose the waiver to apply to updates and no waiver is granted for updates of the IDS.

A review of Office records indicates that 23 applications are either Image File Wrapper (IFW) applications or will soon be IFW applications. The one application that is not an IFW application will become an IFW application upon filing an RCE which appears to be required for consideration of the IDS. The Office has provided an image copy of all of the IDS references from the holding application to the other 23 bulk IFW applications.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of foreign patent and non-patent literature references in 24 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available in different applications from one paper copy, on balance, there is seen to be sufficient benefit to justify waiver in this instance for all the applications filed.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each foreign patent and non-patent literature IDS citation in a bulk filing application will be waived in the bulk filing applications provided that the following 7 conditions are complied with:

1) One paper copy of each foreign patent and non-patent literature IDS citation has been submitted to the Office in the concurrently filed IDS in this, the holding application;

2) The information cited in each of the bulk filing applications is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), if submitted in the holding application, must also be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) There will be no waiver of any aspects of 37 CFR 1.97 in any application after allowance or final rejection of that application.

Part IV. Further Correspondence

Any correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By FAX: (703) 872-9306
Attn: Office Patent Legal Administration/Michael L. Lewis

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Petitioner's list of Applications

NEIFELD DOCKET NO: X2YA0010U/US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATIONS OF: Anthony

Examiner: JACKSON, S.

APPLICATION NO: 10/237,079

GAU: 2836

RECEIVED

APR 2 2 2004

OPLA

Filed: 9/9/2002

Title: Universal Energy Conditioning Interposer with Circuit Architecture

and relating to the following 24 applications:

National AppNo	Neif Dock Ref	Status	Title
09/647,648	X2YA0105UPCT-US	Allowed	Component Carrier
10/479,506	X2YA0025UPCT-US	pending	Arrangement for Energy
10/766,000	X2YA0013U-US	pending	Shielded Energy Conditioner
09/996,355	X2YA0125U-US	Pending	Energy pathway arrangement
10/023,467	X2YA0126U-US	Pending	Energy pathway arrangements
10/115,159	X2YA0021U-US	Pending	Offset pathway arrangements
10/189,338	X2YA0022U-US	Pending	Pathway arrangement
10/189,339	X2YA0023U-US	Pending	Arrangement for energy
10/237,079	X2YA0010U/US	Pending	Universal energy conditioning
10/328,942	X2YA0108U-US-C1	Pending	Paired Multi-Layered Dielectric
10/344,749	X2YA0119UPCT-US	Pending	An Electrode Arrangement for
10/399,590	X2YA0015UPCT-US	Pending	Amalgam of shielding and
10/399,630	X2YA0014UPCT-US	Pending	Energy Pathway Arrangements
10/432,840	X2YA0016UPCT-US	Pending	Energy Pathway Arrangements
10/433,482	X2YA0017UPCT-US	Pending	Energy Pathway Arrangements
10/435,199	X2YA0020U-US	Pending	Energy Conditioning Structure
10/443,764	X2YA0026U-US-C1	Pending	Paired Multi-Layered Dielectric
10/443,778	X2YA0029U-US-C2	Pending	Energy Conditioning Circuit
10/443,788	X2YA0028U-US-C2	Pending	Component Carrier
10/443,792	X2YA0027U-US-C1	Pending	Multi-Functional Energy
10/460,361	X2YA0032UUSC1	Pending	Predetermined symmetrically
10/705,962	X2YA0041U-US	Pending	COMPONENT CARRIER
09/632,048	X2YA0117U-US	Allowed	Universal Energy Conditioning
10/369,335	X2YA0100U-US-C4	Allowed	Polymer Fuse & Filter

TO: ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22313

37 CFR 1.183 PETITION TO WAIVE PORTION OF THE IDS RULES

FILE A REDUCED SET OF REFERENCES

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

JUL 22 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of :
KANO, AZUMA, et al. :
Application No. 10/766,015 :
Filed: July 12, 2004 :
For: **DISK ARRAY SYSTEM AND METHOD FOR CONTROLLING DISK ARRAY SYSTEM** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 12, 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAIL

APR 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of NAKATANI et al	:	
Application No.: 10/766,022	:	DECISION ON PETITION
Filing Date: January 29, 2004	:	FOR ACCELERATED
For: STORAGE SYSTEM AND FILE-	:	EXAMINATION UNDER
REFERENCE METHOD OF REMOTE-	:	M.P.E.P. §708.02(VIII)
SITE STORAGE SYSTEM	:	

This is a decision on the petition filed January 24, 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 January 24, 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

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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

McDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

COPY MAILED

MAY 02 2007

OFFICE OF PETITIONS

In re Application of	:
Masayuki Hata et al	:
Application No. 10/766,031	: DECISION GRANTING PETITION
Filed: January 29, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 57810-085	:

This is a decision on the petition, filed April 19, 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 2, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\May10\766031.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SLATER & MATSIL LLP
17950 PRESTON ROAD
SUITE 1000
DALLAS TX 75252

MAILED

JUL 28 2009

OFFICE OF PETITIONS

In re Application of :
Moritz Haupt :
Application No. 10/766,053 : DECISION ON PETITION
Filed: January 28, 2004 :
Attorney Docket No. QIM 2003 P 51718 US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed October 3, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2892 for appropriate action by the Examiner in the normal course of business on the reply received June 8, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

MAILED

JUL 19 2010

OFFICE OF PETITIONS

In re Application of
Moritz Haupt
Application No. 10/766,053
Filed: January 28, 2004
Attorney Docket No. **QM000006**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed June 16, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with the above-identified application has been revoked by the assignee who has intervened in the application on June 29, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: John S. Economou
202 Mamaroneck Ave., Third Floor
White Plains NY 10601

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/25/2010

Applicant	: Soichi Saito	: DECISION ON REQUEST FOR
Patent Number	: 7641784	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/766,068	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1159** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-4-09

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/764081 Patent No.: 7225842

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Please check Drawings

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

Erma Young
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: APPROVED

/Dana Ross/ 3725

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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DLA PIPER US LLP
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

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MAR 15 2007

OFFICE OF PETITIONS

In re Application of
John Terrell Rickard
Application No. 10/766,097
Filed: January 27, 2004
Attorney Docket No. LMORIN1260-1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 23, 2006, which set a shortened statutory period for reply of thirty days or one (1) month, which ever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) could be obtained. Accordingly, the application became abandoned on April 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 3641 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: GERALD T. SEKIMURA
153 TOWNSEND STREET
SUTIE 800
SAN FRANCISCO, CA 94107

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA, GA 30361

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AUG 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
HIRSH, et al.	:	
Application No. 10/766,124	:	DECISION ON PETITION
Filed: January 24, 2004	:	TO WITHDRAW
Attorney Docket No. CP 108	:	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 15, 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 Charles Vorndran 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.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: JANE HIRSH
15 PEIRCE ROAD
WELLESLEY, MA 02481

cc: ROBERT M. SCHULMAN
HUNTON & WILLIAMS, LLP
1900 K STREET NW, SUITE 1200
WASHINGTON, DC 20006-1109

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/27/07

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/766128** Patent No.: **7186346**

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: In column 4, the entire paragraph of lines 42-58 should be deleted, not just the words "In the view of Fig. 2," See the amendment of 12/18/06

5-30

DUANE SMITH
SUPERVISORY PATENT EXAMINER
SPE

1724
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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VIERRA MAGEN MARCUS & DENIRO LLP
575 MARKET STREET
SUITE 2500
SAN FRANCISCO, CA 94105

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of :
Richard Perego et al :
Application No. 10/766,131 : DECISION GRANTING PETITION
Filed: January 28, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. RAMB-01049US2 :

This is a decision on the petition, filed May 7, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 20, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2189 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 04 2004

CHARMASSON & BUCHACA & LEACH LLP
1545 HOTEL CIRCLE SOUTH
SUITE 150
SAN DIEGO CA 92108-3412

In re Application of	:	
David F. Zhou et al	:	
Serial No.: 10/766,135	:	DECISION ON PETITION
Filed: January 27, 2004	:	
For: Specimen Collection and Storage and	:	
Transport Device and Method	:	

This is in response to applicants' petition filed January 27, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the merits as it relates HIV/AIDS.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision..

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle

John E. Kittle
Director
Technology Center 3700/2900

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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CHARMASSON, BUCHACA & LEACH, LLP
1545 HOTEL CIRCLE SOUTH, SUITE 150
SAN DIEGO CA 92108-3426

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Zhou et al.	:	
Application No. 10/766,135	:	ON PETITION
Filed: January 27, 2004	:	
Attorney Docket No. 040003	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 21, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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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WOODARD EMHARDT MORIARTY MCNETT & HENRY
SUITE 3700, BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE
INDIANAPOLIS, IN 46204-5137

COPY MAILED
MAY 19 2006
OFFICE OF PETITIONS

In re Application of	:	
T. Andrew Simonton et al	:	
Application No. 10/766,167	:	ON PETITION
Filed: January 28, 2004	:	
Attorney Docket No. 4002-3462/PC947.00	:	

This is a decision on the petition under 37 CFR 1.182, filed January 20, 2006, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. Kevin T. Foley
2. T. Andrew Simonton
3. Sean M. Haddock
4. James P. Duncan
5. Jeffrey D. Moore

A corrected filing receipt with the desired order of inventorship is enclosed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This application is being referred to Technology Center AU 3738.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

cc: KRIEG DEVAULT
ONE INDIANA SQUARE, SUITE 2800
INDIANAPOLIS, IN 46204-2079

UNITED STATES PATENT AND TRADEMARK OFFICE

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DOV ROSENFELD
5507 COLLEGE AVE
SUITE 2
OAKLAND, CA 94618

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APR 26 2005

OFFICE OF PETITIONS

In re Application of	:
Timothy S. Olson et al	:
Application No. 10/766,174	: DECISION GRANTING PETITION
Filed: January 28, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. CISCO-6592	:

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2005, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on April 20, 20044. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 4, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This application is being forwarded to Technology Center Art Unit 2857 for examination in due course.

Wan Layman

Wan Layman
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Laurent H. Andriantsiferana	: DECISION ON REQUEST FOR
Patent Number	: 7596107	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/766,180	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1254** 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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Reed Smith LLP
Suite 1400
3110 Fairview Park Drive
Falls Church, Virginia 22042

MAILED

JUL 0 5 2005

Technology Center 2100

In re Application of SUZUKI et al.	:	
Application No.: 10/766,187	:	DECISION ON PETITION
Filing Date: January 29, 2004	:	FOR ACCELERATED
For: DISK ARRAY DEVICE AND REMOTE	:	EXAMINATION UNDER
COPYING CONTROL METHOD FOR	:	M.P.E.P. §708.02(VIII)
DISK ARRAY DEVICE	:	

This is a decision on the petition filed June 14, 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;

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 June 14, 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

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

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AUG 1 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Pryzgoda	:	
Filed: January 28, 2004	:	ON PETITION
Application No. 10/766,203	:	
Dkt. No.: 68,127-022	:	

This decision is in response to the "PETITION & RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION," filed June 30, 2004. This petition is being treated as a petition for withdrawal of Notice and accordance of a filing date of January 28, 2004.

The application was filed January 28, 2004. The Notice mailed June 17, 2004 by the Office of Initial Patent Examination indicated that the application had been accorded a filing date but that pages 8, 23, and 25 of the specification appeared to have been omitted from the application as filed.

In response, the present petition was filed wherein petitioner argues that the application as deposited included pages 8, 23, and 25 of the specification. Petitioner has included as proof of mailing and proof of receipt of the omitted items in question a return postcard date stamped by the Office on January 28, 2004. A copy of pages 8, 23, and 25 of the specification purportedly filed with the application on January 28, 2004 was also supplied.

The original pages 8, 23, and 25 have not been located. However, in view of the evidence presented, the petition to accord the above-identified application a filing date of January 28, 2004 is hereby GRANTED. The Notice of Omitted Item(s) in a Nonprovisional Application is hereby WITHDRAWN.

Since the original pages 8, 23, and 25 of the specification cannot be located in the Office, the copy of pages 8, 23, and 25 supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter. A refund of the previously submitted $130.00 petition fee has been requested from the Finance Office, Refund Section on petitioner's behalf.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of January 28, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: _____

2 Serial/Patent # 10/766 203

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	IFW	6/30/04	$ 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 0 8 -- 2 7 8 9

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [X] No Fee Due (Explanation):

PTO ERROR

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: AMBROWN TITLE: Atty.

SIGNATURE: [signature] PHONE: 305 0310

OFFICE: OP

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 8/13/04

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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APR 1 1 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Stanley P. Fisher
Reed Smith Hazel & Thomas LLP
3110 Fairview Park Drive, Suite 1400
Falls Church VA 22042-4503

In re Application of
MIYAMOTO, KENICHI, et al.
Application No. 10/766,206
Filed: January 29, 2004
For: **DISK ARRAY APPARATUS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed March 15, 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
571-272-2986

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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SNELL & WILMER
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX AZ 85004-2202

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OFFICE OF PETITIONS

In re Application of	:	
Tipirneni, Kishore	:	
Application No. 10/766,232	:	NOTICE
Filed: January 28, 2004	:	
Attorney Docket No. 36742.0136	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JOSEPH A. COPPOLA, ESQ.
KENYON & KENYON
ONE BROADWAY
NEW YORK, NEW YORK 10004

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SEP 01 2005

OFFICE OF PETITIONS

In re Application of Claus Meese et al Application No. 10/766,263 Filed: January 27, 2004 Attorney Docket No. 12961/46102	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed August 23, 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 August 15, 2005 (certificate of mailing date of August 10, 2005) in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1624 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), 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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BARRY W. CHAPIN, ESQ.
CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH MA 01581

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SEP 3 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Peter Savage, et al.	:	
Application No. 10/766,293	:	DECISION ON PETITION
Filed: January 28, 2004	:	
Attorney Docket No. EMPIR-068PUS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 13, 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 March 12, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 12, 2007. Accordingly, the date of abandonment of this application is March 13, 2008. The Notice of Abandonment was mailed March 24, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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