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Paper No. None

PLEVY & HOWARD & DARCY P.C.
P.O. BOX 226
Fort Washington PA 19034

COPY MAILED

MAR 12 2007

OFFICE OF PETITIONS

In re Application of
Paul A. Doran
Application No. 10/766,310
Filed: January 27, 2004
Attorney Docket No. DORAN-2 CIP
Title: TAPERED COUPLER FOR COUPLING A MOTOR TO A HOIST MACHINE

DECISION ON PETITION UNDER 37 C.F.R. §1.182

This is a decision on the "Request to Correct Spelling of Inventor's Name," filed October 17, 2006, to correct the spelling of the name of the sole inventor. This submission is properly treated as a petition pursuant to 37 C.F.R. §1.182.

Petitioner has set forth that the middle initial of the sole inventor was erroneously given as "A," when it should have been listed as "J."

Petition fee requirement

The fee for filing a petition pursuant to Rule §1.182 is $400, with no reduction for small entity status. Petitioner has set forth "as this is a typographical error, no petition is required," but this statement is inaccurate. *Petitioner's request can be granted only via the filing of a petition pursuant to Rule §1.182*, which requires the submission of the appropriate fee.

The payment of the required petition fee is a prerequisite to the filing of a petition under this section of the C.F.R. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature.

As the present submission is incomplete, this petition must be **DISMISSED**.

Moreover, the petition fee cannot be waived, as petition fees are jurisdictional. The last sentence of 37 C.F.R. §1.182 specifically sets forth "any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(f)."

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. 1.182." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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HEWLETT PACKARD COMPANY
P.O. BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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JUN 27 2008

OFFICE OF PETITIONS

In re Application of :
Jim Paikattu et al :
Application No. 10/766,353 :
Filed: January 28, 2004 :
Attorney Docket No. 200314435-1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 13, 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 8, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 9, 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 2629 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Nenad Pejic
800 Superior Avenue – Suite 1400
Cleveland, OH 44114

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/17/06

TO SPE OF : ART UNIT [redacted] 2891

SUBJECT : Request for Certificate of Correction on Patent No.: 10/766376 6894368

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:

_____

_____

_____

_____

B. WILLIAM BAUMGERTNER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE 2891 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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OLIVE & OLIVE, P.A.
500 MEMORIAL STREET
PO BOX 2049
DURHAM, NC 27702

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AUG 1 0 2006
OFFICE OF PETITIONS

In re Application of Blackwood :
Application No. 10/766,397 : Decision on Petition
Filing Date: January 23, 2004 :
Attorney Docket No. bla00234.p.US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 8, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed August 23, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on November 24, 2005. A Notice of Abandonment was mailed on March 7, 2006.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The petition is signed by S. Matthew Edwards. Edwards was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Edwards was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Edwards that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] 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 a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The Office notes Edwards has not been given a power of attorney. If Edwards wishes to continue to correspond with the Office, a power of attorney should be filed.

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 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).

Technology Center Art Unit 2872 will be informed of the instant decision and the application, including the papers filed May 8, 2006, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST JOSEPH MI 49085

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of	:	
McAllister, et al.	:	
Application No. 10/766,404	:	DECISION ON PETITION
Filed: January 27, 2004	:	
Attorney Docket No. US20010207	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 12, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to application No. 10/142,345.

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 application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii).

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

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

Receipt of the $1410 petition fee is acknowledged.

Any questions concerning this decision on petition may be directed to Petitions Attorney Cliff Congo at (571)272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1792 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.

Anthony Knight
Supervisor
Office of Petitions

Enc: Draft Corrected Filing Receipt (1 page)

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/766,404	01/27/2004	1792	1216	US20010207	40	4

CONFIRMATION NO. 3362

CORRECTED FILING RECEIPT

OC000000028782779

OC000000028782779

173
WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

Applicant(s)

Karl David McAllister, Stevensville, MI;
Andrew J. Leitert, Eau Claire, MI;
Daniel C. Conrad, Stevensville, MI;

Power of Attorney: The patent practitioners associated with Customer Number **00173**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/142,345 05/09/2002 PAT 7,127,767

Foreign Applications

If Required, Foreign Filing License Granted: 06/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/766,404

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Random tumbling washing machine wash chamber for improving cleaning while minimizing mechanical damage to clothes

Preliminary Class

008

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Paper No.

William A. Schoneman, Esq.
Telcordia Technologies, Inc.
One Telcordia Drive 5G116
Piscataway, NJ 08854-4157

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MAY 11 2005
OFFICE OF PETITIONS

In re Application of :
Weidmark et al. : DECISION ON
Application No. 10/766,408 :
Filed: January 27, 2004 :
Attorney Docket No. APP 1492 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper and timely reply to the "Notice to File Missing Parts of Nonprovisional Application" mailed May 19, 2004. This Notice set a two-month period for reply with extensions of time obtainable under §1.136(a). On May 27, 2004, applicants filed a reply. However, by "Notice of Incomplete Reply" mailed June 8, 2004, applicants were informed that the reply was insufficient and that the period for reply continued to run as set forth in the Notice mailed May 19, 2004. As no extensions of time were obtained, the above-identified application became abandoned effective July 20, 2004. The instant petition precedes the mailing of a Notice of Abandonment.

Petitioner states that the Notice mailed June 8, 2004 was not received. However, petitioner submits no evidence to support a showing of non-receipt. Accordingly, withdrawal of the holding of abandonment is not warranted.

Nonetheless, 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 replacement abstract, paid the petition fee, and made the required statement of unintentional delay.

The application file is being returned to the Office of Initial Patent Examination for consideration of the response (a replacement abstract) supplied on petition filed February 14, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Scott Jacobson, Esquire
Honeywell International, Inc.
101 Columbia Road
P.O. Box 2245
Morristown, NJ 07962-2245

Mail Date: 05/10/2010

Applicant	: Brian L. Gibson	: DECISION ON REQUEST FOR
Patent Number	: 7645819	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/766,430	: 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 **567** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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URSULA B. DAY, ESQ.
350 FIFTH AVE.
SUITE 3220
NEW YORK NY 10118

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SEP 1 4 2004

OFFICE OF PETITIONS

In re Application of :
Schaller et al. :
Application No. 10/766,435 : DECISION ON PETITION
Filed: January 27, 2004 :
Attorney Docket No. SCHALLER 2/1 :

This is a decision on the petition filed August 5, 2004, requesting that the above-identified application be accorded a filing date of January 27, 2004, with page 28 of the specification as part of the original disclosure.

On January 27, 2004, applicants filed the above-identified application. On June 21, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of January 27, 2004, and advising applicants that page 28 of the specification appeared to have been omitted.

In response, on August 5, 2004, applicants filed the present petition, the petition fee, and a copy of applicants' postcard receipt acknowledging receipt of, *inter alia*, "Continuation Application 36 pp., 7 drawings" on January 27, 2004. Additionally, applicants submitted page 28 of the specification with the present petition.

In the present petition, applicants state that the application was filed with a total of 43 pages consisting of 30 pages of specification, 5 pages of claims, 1 page of abstract, and 7 pages of drawings. Applicants request that the application, including page 28 of the specification, be accorded a filing date of January 27, 2004.

Upon review of the record, page 28 of the specification, deposited on January 27, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on January 27, 2004, included page

28 of specification, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including page 28, was complete on filing and will be granted a filing date of January 27, 2004.

Accordingly, the petition is granted.

The Notice of June 21, 2004, was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 50-1747.

The Office of Initial Patent Examination is directed to process the application with a filing date of January 27, 2004, using the application papers submitted on that date and page 28 of the specification submitted with the present petition.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of	:	
Miller et al.	:	
Application No. 10/766,438	:	ON PETITION
Filed: January 27, 2004	:	
Attorney Docket No. MS1-332USC1	:	

This is a decision on the petition filed May 11, 2005, requesting that the above-identified application be accorded a filing date of January 27, 2004, rather than the presently accorded date of January 21, 2004. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on January 27, 2004 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 395542210 US, showing an incorrect handwritten "date-in" of "January 21, 2003" as well as a "January 27, 2004" Denver, CO Post Office receipt stamp. Additionally, the same Express Mail receipt number appears on the original "Patent Application Transmittal Letter."

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on January 27, 2004 at 3:50 p.m. at the Denver, CO USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on January 27, 2004. Accordingly, the instant application is entitled to a filing date of January 27, 2004, and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) does not require a petition fee and none has been collected.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of January 27, 2004, along with a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center 2100 for examination in due course.

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3206.

Frances Hicks

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

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ROBERT D. CRAWFORD
CIDRA CORPORATION
50 BARNES PARK NORTH
WALLINGFORD, CT 06492

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OFFICE OF PETITIONS

In re Application of	:	
Daniel L. Gysling et al	:	
Application No. 10/766,440	:	DECISION GRANTING PETITION
Filed: January 27, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CC-0714	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of February 15, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of
Udi Suissa, et. al.
Application No. 10/766,448
Filed: January 27, 2004
Attorney Docket No. TI-34792

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 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 June 4, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 5, 2007.

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

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

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

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

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/16/10

TO SPE OF : ART UNIT 2893

SUBJECT : Request for Certificate of Correction for Appl. No.: 10766468 Patent No.: 7696526

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

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

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

/Davienne Monbleau/ 2893

SPE **Art Unit**

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DIW Feb-06

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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FEB 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Bosten et al.	:	
Application No. 10/766,482	:	ON PETITION
Filed: 29 January, 2004	:	
Atty Docket No. 54525.000096	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed on 13 January, 2006.

This application was held abandoned for failure to timely reply to a non-final Office action mailed on 29 October, 2004. The Notice of Abandonment mailed on 9 December, 2005, stated that the amendment filed on 29 April, 2005 was held non-responsive and that applicant had not taken further action within the period for response.

On 13 January, 2006, the present petition was filed, accompanied by a five (5) month extension of time.

Petitioners assert that the period for reply did not expire until 13 January, 2006, and that, in essence, the Notice of Abandonment mailed on 9 December, 2005, was mailed prematurely. Petitioners states that a continuing application was filed on 13 January, 2006.

A review of the record reveals that on 29 April, 2005, an amendment was filed in response to a non-final Office action mailed on 29 October, 2004. In response, on 13 July, 2005, a Notice of Non-Compliant Amendment was mailed.

The Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 13 July, 2005, states, in pertinent part

> Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice

> to supply the corrected section of the non-compliant amendment in compliance with 37 CFR 121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment…
>
> **Extensions of time** are available under 37 CFR 1.136(a) only if the non-complaint amendment is a nonfinal amendment or an amendment filed in response to a Quayle action.

Therefore, petitioners are correct that the time period for reply could be extended for five (5) months, through 13 January, 2006. As a five (5) month extension of time was filed on 13 January, 2006, the application was pending on 13 January, 2006.

Of course, if no reply was submitted on or before 13 January, 2006, the application became abandoned as of midnight 13 January, 2006, for failure to timely reply to the Notice mailed on 13 January, 2006. If petitioners timely filed a continuing application, this application would be abandoned in favor of the continuing application.

As such, the petition is **granted** to the extent indicated.

The Notice of Abandonment mailed on 9 December, 2005, is vacated.

The application is referred to Technology Center 3700 for further processing, including mailing a new Notice of Abandonment.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KUBOVCIK & KUBOVCIK
SUITE 710
900 17TH STREET NW
WASHINGTON DC 20006

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JUN 24 2008

OFFICE OF PETITIONS

In re	:
Kobayashi, et al.	: DECISION ON REQUEST
Application No. 10/766,487	: FOR RECONSIDERATION OF
Filed: January 29, 2004	: PATENT TERM ADJUSTMENT
Patent No. 7,235,612	: UNDER 37 C.F.R. §1.705(d)
Issued: June 26, 2007	:

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. §1.705(d)" filed August 23, 2007, requesting correction of the patent term adjustment (PTA) indicated on the patent due to the patent not issuing within three years of its filing.

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

On June 26, 2007, the above-identified application matured into U.S. Patent No. 7,235,612. The patent issued with a Patent Term Adjustment of two hundred forty-two (242) days (336 days of PTO delay and 94 days of applicant delay).

The Office determined a patent term adjustment of two hundred forty-two (242) days based on an adjustment for PTO delay of three hundred thirty-six (336) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by ninety-four (94) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

Patentees state that an additional PTO delay of 148 days should have been accorded due to the Office's failure to issue the patent within three years of filing.

Patentees' argument is not persuasive. Patentees are advised that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). *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). Since the Office delay under 37 CFR 1.702(a)(1) is greater than the delay for 37 CFR 1.702(b), patentees will receive no additional PTA time.

In view thereof, the correct determination of PTA at the time of issuance is two hundred forty-two (242) days.

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ALEX L. YIP
KAYE SCHOLER, LLP
425 PARK AVENUE
NEW YORK, NY 10022

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APR 13 2007
OFFICE OF PETITIONS

In re Application of :
Nicholas J. Elsey, et al. :
Application No. 10/766,498 : ON PETITION
Filed: January 27, 2004 :
Attorney Docket No. 41698.1112 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 11, 2006, 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 fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2614 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OCT 14 2005

Wolf Bloc Schorr & Solis-Cohen LLP
250 Park Ave.
New York, NY 10177

In re Application of:	:	
Sherwin	:	
Serial No.: 10/766,499	:	DECISION ON REQUEST TO WITHDRAW
Filed: January 27, 2004	:	FROM RECORD
Attorney Docket No.: **206/03834**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 4, 2005.

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

The request meets all the above stated requirements. The request was signed by Paul Fenster, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.
All future communications from the Office will be directed to Splatech Technologies, Ltd., at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Splatech Technologies, Ltd.
Beit Zayit 205
90815 Beit Zayit
Israel

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

1/16/09

In re Application of:
RAY, EDDIE F. III et al.
Serial No.: 10/766,504
Filed: Jan. 27, 2004
Docket: 03190.000100.
Title: BONE GRAFTS

DECISION ON PETITION

This is a decision on the petition filed on Dec. 4, 2008 by which petitioner requests reconsideration and withdrawal of the restriction requirement mailed Dec. 13, 2007 and that all non-elected claims be rejoined and examined on the merits along with the elected claims. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **DISMISSED**.

A review of the record reveals that a restriction requirement was made between three disclosed and claimed related inventions: (I) Claims 1-15, 19-46, and 50-66 drawn to a bone allograft, classified in class 623, subclass 17.11. (II) Claims 16, 18, 47, and 49, drawn to a method for restoring vertical support, classified in class 606, subclass 61, and (III) Claims 17, 18, 48, and 49, drawn to a method of making an allograft, classified in class 623, subclass 23.61. In addition, the examiner required an election of species between the embodiments represented by Figures 1-36. The examiner alleged that there are twenty species, namely, Species A. Figure 1; B. Figures 3-4; C. Figures 5-6 ; D. Figures 7-8 ; E. Figure 11 ; F. Figure 12; G. Figure 13 ; H. Figures 14-17 ; I. Figure 18 ; J. Figures 19-20 ; K. Figure 21 ; L. Figure 22 ; M. Figure 23 ; N. Figures 24-25 ; O. Figure 26 ; P. Figure 27; Q. Figure 28 ; R. Figure 29 ; S. Figures 30-32 and T. Figures 33-36.

In judging the propriety of the restriction requirement, the related inventions, as claimed, must be shown to be distinct. See MPEP 802.01. The inventions I and II are related as product and process of use and can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case, the examiner stated that the Inventions III and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be

made by another and materially different process (MPEP § 806.05(f)). In the instant case, the examiner stated that the process as claimed can be used to make another and materially different product. Inventions II and III are directed to related processes. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the examiner stated that the inventions as claimed have a materially different design, mode of operation, function, or effect. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

In the instant application, the distinctness between the claimed inventions was justified in that the process for using the product as claimed can be practiced with another materially different product and the process as claimed can be used to make another and materially different product. The inventions as claimed in Group II and III do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

Furthermore, as part of any restriction requirement, the search and examination for each of these three claimed inventions and various distinct species must be considered a serious burden on the examiner if restriction were not required. See MPEP 803 and 808.02. Aside from the different classifications indicated in the requirement, the search for the process claims would involve a search in areas such as where restoring vertical support are found, for example in Classes 623, 606, 604, etc. which are diverse from the search for the product claims.

Petitioner traverses the examiner's rationale of the restriction by basically arguing that the claims were copied from another patent for interferences purposes. Essentially, petitioner argues that by maintaining the restriction the applicant would have to file additional applications which would be unnecessarily inefficient, cumbersome and undesirable to both the Examiner and the Board of Patent Appeals and Interferences. Petitioner also believes that the path of prosecution likely to be most efficient to the USPTO and cost effective to the parties, and therefore the least burdensome to all, is to examine all three groups of claims in the subject application together, rather than separately. This line of arguments is not persuasive to overcome the restriction requirement. Petitioner failed to present arguments as to why the separate Inventions I, II and III and various species are not patentably independent or distinct. There are no arguments presented as to why the species are not mutually exclusive.

Finally, petitioner argues that if additional applications are to be filed, efforts of the Board of Patent Appeals and Interferences would be expanded two or three times compared to prosecution of a single interference. Therefore such possible multiple contested proceedings will consume far more resources of the PTO and the parties than would a single examination of the subject application now. This line of arguments is also not persuasive because should the copied claims ultimately become allowable, the potential interferences with Ford patent still may be grouped together by the Board of Patent Appeals and Interferences, if desirable.

Conclusion

For the reasons outlined above, the restriction requirement promulgated in the restriction requirement dated Dec. 13, 2007 is in accordance with proper Office procedure. Therefore, the examiner's restriction requirement is proper.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3733 for further consideration of the applicant's response filed on Dec. 4, 2008. The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is DISMISSED.

Donald T. Hajec, Director
Technology Center 3700

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NEW YORK NY 10112

1/16/09

In re Application of:
RAY, EDDIE F. III et al
Serial No.: 10/766,504
Filed: Jan. 27, 2004
Docket: 03190.000100.
Title: BONE GRAFTS

DECISION ON PETITION

This is a decision on the Petition for Suspension of Action received on Dec. 4, 2008, seeking to suspend action on the above-identified application for a period of six months. This petition is being considered pursuant to 37 CFR § 1.103(a). The petitioner has paid the requisite petition fee.

The petition is denied.

In the petition, petitioner alleged that the petition to suspend further action on the current application is to permit action by the PTO on Applicants' Request for Reexamination and for the PTO to make a consistent determination of patentability of the same or substantially the same claims to both parties. The reason for a six-month suspension of action is not convincing and could not justify a six-month delay in prosecution. The Office must balance the burden of timely examinations and needs of the public to know which claims it faces with the needs of applicants in pursuing claims which reflect the scope to which they are entitled. The petition fails to establish why suspension of action in the case is necessitated by a reexamination request in another patent. Accordingly, applicant has failed to establish good and sufficient reasons to delay the prosecution. The request is denied.

The application remains in active status and is being forwarded to the Supervisory Patent Examiner of Art Unit 3733 for immediate preparation of an Office action in response to the amendment filed on Dec. 4, 2008. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DENIED.

Donald T. Hajec, Director
Technology Center 3700

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4/3/09

In re Application of:
RAY, EDDIE F. III et al
Serial No.: 10/766,504
Filed: Jan. 27, 2004
Docket: 03190.000100.
Title: BONE GRAFTS

DECISION ON PETITION

This is a decision on the Petition for Suspension of Action received on March 20, 2009, seeking to suspend action on the above-identified application for a period of six months. This petition is being considered pursuant to 37 CFR § 1.103(a)[1]. The requisite petition fee under 37 CFR § 1.17(g) was paid.

The petition is denied.

In the petition, petitioner alleged that the petition to suspend further action on the current application is to permit action by the PTO on Applicants' Request for Reexamination and for the PTO to make a consistent determination of patentability of the same or substantially the same claims to both parties.

The record shows:

1) On May 30, 2008, the examiner issued a non-final Office action.
2) On December 4, 2008, the applicant filed a response to the non-final Office action.
3) On December 4, 2008, the applicant filed the current petition to suspension office action for a period of six months.
4) On January 16, 2009, the petition was denied for failure to show good and sufficient reasons to delay prosecution.
5) On January 21, 2009, the examiner issued a final Office action rejecting all elected claims.
6) On March 20, 2009, the current petition seeking suspension of Office action is filed.

---

[1] 37 CFR 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

In the petition, petitioner alleges that the request for reexamination SN 90/009,348 of the Ford Patent has been granted. A substantial new question of patentability of those very claims has now been found by the USPTO. In order to avoid inconsistent determination of patentability of those claims in the reexamination application, petitioner requests suspension of the current application for six (6) months to permit further action by the USPTO on the reexamination of the Ford Patent.

The reason for suspension of Office action is not justified. Under 37 CFR § 1.103(a), the Office will not suspend action if a reply by applicant to an Office action is outstanding. There was a final Office action mailed on January 21, 2009. The applicant must file a response to the final Office action of January 21, 2009 within the statutory period to respond. Therefore, the requested suspension will not be granted.

Furthermore, the reason for a six-month suspension of action is not convincing and could not justify a six-month delay in prosecution. As stated in the last decision, the Office must balance the burden of timely examinations and needs of the public to know which claims it faces with the needs of applicants in pursuing claims which reflect the scope to which they are entitled. Therefore, any suspension of Office action will not be granted without a good and sufficient cause. Since the application is under final, it would be more expeditious if the applicant would go forward to perfect the appeal so that a final patentability decision can be rendered by the Board of Appeals and Interference. Accordingly, the request is denied.

The application remains in active status and is being forwarded to the Supervisory Patent Examiner of Art Unit 3733 awaiting the applicant's Notice of Appeal and Appeal Brief in response to the final office action of January 21, 2009. As stated in 37CFR § 1.181(f): The mere filing of a petition will not stay any period for reply that may by running against the application, nor act as a stay of other proceedings.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02(b).

Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DENIED.

for

Donald T. Hajec, Director
Technology Center 3700

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OFFICE OF PETITIONS

Applicant: Hunter et al.
Appl. No.: 10/766,515
Filing Date: January 27, 2004
Title: INTEGRATED OBJECT SQUASH AND STRETCH METHOD AND APPARATUS
Attorney Docket No.: 021751-001210US
Pub. No.: US 2004/0007370 A1
Pub. Date: January 13, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on March 10, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, because in paragraph [0033], after the sentence ending in "DSL, or the like" the numerals "100341" mistakenly appears and the next sentence should start a new paragraph.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor wherein the next paragraph number was mistakenly printed as text in a paragraph and the next paragraph did not start a new paragraph is an Office error but the mistake is a minor typographical error, which is clearly understandable to one of ordinary skill in reading the specification. The mistake is a minor typographical, which does not affect the understanding of the application, as the text of specification and the claims is clearly understandable from reading the specification, as the misprinted and misplaced numeral does not affect the understanding of the application. The mistake does not affect the public's ability to

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of :
Flotats, et al. :
Application No.10/766,554 : DECISION GRANTING PETITION
Filed: August 13, 2004 :
Attorney Docket No. 200206527-1 :

This is a decision on the petition filed August 13, 2004, requesting that the above-identified application be accorded a filing date of August 13, 2004, with Figures 9,10,and 11 as part of the original disclosure.

On January 27, 2004, the above-identified application was filed. On June 21, 2004, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of January 27, 2004, however, Figures 9, 10, and 11 as described in the specification appeared to have been omitted. Relative to the omitted drawings, the Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on August 13, 2004, applicants filed the present petition, figures, 9, 10, and 11, and an executed declaration and requested that the application be accorded a filing date as of the date the omitted drawings were filed.

Upon review of the record, Figures 9, 10, and 11 have not been located among the application papers, and applicant has requested that the application be accorded a filing date of August 13, 2004---the date the omitted figures were filed. The application is, therefore, accorded a filing date of August 13, 2004, with Figures 9, 10, and 11 as part of the original disclosure.

Accordingly, the petition is granted.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 13, 2004.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MAY 11 2007

NOVARTIS VACCINES AND DIAGNOSTICS INC.
CORPORATE INTELLECTUAL PROPERTY R338
P.O. BOX 8097
EMERYVILLE CA 94662-8097

In re Application of	:
Mariagrazia Pizzaet al	:
Serial No.: 10/766,560	: PETITION DECISION
Filed: January 29, 2004	:
Attorney Docket No.: 002441.00076	:

This is in response to the petition under 37 CFR 1.59(b), filed January 29, 2004, to expunge information submitted on filing of the application. The failure to act timely on this petition is regretted by the Office.

Petitioner requests that the specification and claims of SN 08/261,892, submitted January 29, 2004, with this application be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

A review of the documents submitted on filing of this application shows that there are three different specifications which were submitted as part of the initial filing of this application. It is also clear that the document applicants request be expunged was not submitted in accordance with 37 CFR 1.59(b) (see M.P.E.P. 724). Thus it is difficult to determine with certainty which of the three specifications and claims should be expunged. The three specifications are different from each other as follows: The first specification and claim set is typewritten, double spaced, and appears to have holes punched in the top of each sheet and has an imprinted or punched number on it which appears to be "M35..." and consists of a total of 38 pages (spec, claims and abstract); the second specification and abstract (no claims) is a newly printed specification with numbered paragraphs and contains underlined material as well as material deleted by

strikethrough; The third specification (no claims, abstract is separate) appears to be a clean copy of the second specification. The Office assumes that the first described specification and claim set is the one to be deleted as being proprietary material. Applicants request that the material be retuned to them, however since the material was not submitted in accordance with M.P.E.P. 724, the material was included in the IFW database and the papers cannot be physically returned. However the indicated material has been closed to public access which is equivalent to expungement of the material.

The petition is **GRANTED** as indicated.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

In re Application of :
Chia Hsiang-Chang :
Application No. 10/766,571 : ON PETITION
Filed: January 28, 2004 :
Attorney Docket No. **FNT-10602/15** :

This is a decision on the petition filed February 7, 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 January 19, 2006 for failure to timely pay the issue fee on or before January 18, 2006. Accordingly, a Notice of Abandonment was mailed March 22, 2006.

The issue fee, publication fee and petition fee have all been applied.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/13/07

Paper No.: —

TO SPE OF : ART UNIT 3635

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/266573 Patent No.: 7159370

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

3634
Art Unit

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 2 2 2006

GORDON & JACOBSON, P.C.
60 LONG RIDGE ROAD
SUITE 407
STAMFORD CT 06902

In re Application of	:	
Sundaram Ravikumar et al	:	
Serial No.: 10/766,597	:	DECISION ON PETITION
Filed: January 27, 2004	:	
For: Surgical Retractor Apparatus for use With a Surgical Port	:	

This is in response to the petition applicant filed on January 23, 2006 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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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CHARLES N.J. RUGGIERO, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
ONE LANDMARK SQUARE, 10th FLOOR
STAMFORD CT 06901-2682

MAILED

APR 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Williams	:	
Application No. 10/766,604	:	DECISION ON PETITION
Filed: January 27, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 460.1844USV1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 30, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

Pursuant to petitioner's authorization, deposit account no. 16-2127 will be charged the required $1,410.00 surcharge.

The rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the 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) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3761for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/766,604	01/27/2004	3761	770	460.1844USV1	4	2

CONFIRMATION NO. 3398

CORRECTED FILING RECEIPT

CHARLES N.J. RUGGIERO, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
ONE LANDMARK SQUARE, 10th FLOOR
STAMFORD, CT 06901-2682

OC000000035582558

Date Mailed: 04/21/2009

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)

Karla E. Williams, Emerson, NJ;

Assignment For Published Patent Application

Playtex Products, Inc.

Power of Attorney:

John Ohlandt Jr--19615
David Koffsky--19905
Charles Ruggiero--28468
Paul Greeley--31019

Domestic Priority data as claimed by applicant

This application is a DIV of 09/977,752 10/15/2001 PAT 6,702,797
which is a DIV of 09/062,993 04/20/1998 PAT 6,353,146

Foreign Applications

If Required, Foreign Filing License Granted: 06/19/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/766,604**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Fibrous articles having odor adsorbtion ability and method of making same

Preliminary Class

604

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 04/20/2010

Applicant	: Hong Xu	: DECISION ON REQUEST FOR
Patent Number	: 7603418	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/766,607	: 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 **1302** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JONES DAY
222 East 41st Street
New York NY 10017-6702

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MAY 06 2009

OFFICE OF PETITIONS

In re Application of :
Swanson et al. :
Application No. 10/766,611 : ON PETITION
Filed: 01/28/2004 :
Attorney Docket No. DB001096-000 :

This is a decision on the petition under 37 CFR 1.182, filed January 9, 2009, to correct the inventors' names.

Petitioners request that the names of the inventors be changed from Travis Swanson to Travis E. Swanson and Jeff Rooney to Jeffrey J. Rooney. Petitioners submitted an authorization to charge the $400.00 petition fee, an Application Data Sheet including the bibliographic information of the inventors, and a Supplemental Declaration For Utility or Design Patent Application properly identifying each inventor and executed by both inventors.

The petition is **granted**.

The Office records have been updated to reflect the correction of the inventors' names as requested above. A corrected filing receipt accompanies this decision.

The $400.00 petition fee is being charged to the Deposit Account as authorized.

This matter is being referred to Technology Center Art Unit 2117.

Inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/766,611	01/28/2004	2117	1032	DB001096-000	25	5

CONFIRMATION NO. 3432

CORRECTED FILING RECEIPT

57694
JONES DAY
222 East 41st Street
New York, NY 10017-6702

OC000000035830506

Date Mailed: 05/06/2009

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)

Travis E. Swanson, Ramsey, MN;
Jeffrey J. Rooney, Blaine, MN;

Power of Attorney: The patent practitioners associated with Customer Number 57694

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/19/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/766,611**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Providing memory test patterns for DLL calibration

Preliminary Class

714

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.

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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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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

Mail Date: 04/21/2010

Applicant	: Lawrence A. Shimp	: DECISION ON REQUEST FOR
Patent Number	: 7585461	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/766,614	: 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 **1404** 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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TRANSFORM PHARMACEUTICALS, INC.
29 HARTWELL AVENUE
LEXINGTON MA 02421

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SEP 0 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Zhang et al.	:	
Application No. 10/766,631	:	DECISION GRANTING PETITION
Filed: January 28, 2004	:	
Attorney Docket No. TPiP018X2	:	

This is a decision on the petition filed August 23, 2004, requesting that the above-identified application be accorded a filing date of January 28, 2004.

On January 28, 2004, applicants deposited the above-identified application. On June 21, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," stating that the application had not been accorded a filing date as the application was deposited without any drawings and that the filing date would be the date of receipt of the omitted item.

In response, on August 23, 2004, applicants filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of 5 drawing sheets. Additionally, applicants submitted a copy of 5 sheets of drawings, consisting of Figures 1-5.

Upon review of the record, 5 sheets of drawings (Figures 1-5), deposited on January 28, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on January 28, 2004, included 5 sheets of drawings (Figures 1-5), which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including the 5 sheets of drawings (Figures 1-5), was complete on filing and will be granted a filing date of January 28, 2004.

Accordingly, the petition is granted.

The requirement to submit drawings set forth in the Notice of June 21, 2004, was sent in error and is hereby vacated.

The Office of Initial Patent Examination is directed to accord the above-identified application a filing date of January 28, 2004, using the 5 sheets of drawings (Figures 1-5) submitted on petition, and to mail a corrected filing receipt. The Office records should indicate that 5 sheets of drawings were submitted on filing.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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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JEAN ELLIS
8939 OVEIDO STREET
SAN DIEGO, CA 92129

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SEP 21 2007

OFFICE OF PETITIONS

In re Patent No. 7,238,876	:	
Issued: July 3, 2007	:	
Application No. 10/766,633	:	DECISION GRANTING PETITION
Filed: January 27, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. FF-1	:	

This is a decision on the petition, filed August 27, 2007, 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 June 1, 2007. 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.

This application matured into Patent No. 7,238,876 on July 3, 2007. Therefore, no further action being required, this patented file is being forwarded to Files Repository.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SWANSON & BRATSCHUN LLC
8210 SOUTHPARK TERRACE
LITTLETON CO 80120

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APR 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Rabinowitz, et al.	:	DECISION ON PETITION
Application No. 10/766,634	:	
Filed: January 27, 2004	:	
Patent No. 7,070,763	:	
Issued: July 4, 2006		

This is a decision on the "PETITION TO RESUBMIT TERMINAL DISCLAIMERS 37 C.F.R. 1.182", filed July 5, 2006.

The petition under 37 CFR 1.182 is **GRANTED**.

The terminal disclaimers filed July 5, 2006, have been entered.

As 37 CFR 1.182 requires a petition fee of $400, that amount has been charged to Deposit Account No. 19-5117, as authorized.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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NOV 0 5 2008
OFFICE OF PETITIONS

In re Application of :
Heon LEE :
Application No. 10/766,646 : DECISION ON PETITION
Filed: January 27, 2004 :
Attorney Docket No. 20030030-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before June 5, 2008, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed March 5, 2008. Accordingly, the date of abandonment of this application is June 6, 2008.

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

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the

petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to K. Reichle at (571) 272-6051.

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

David Bucci
Petitions Examiner
Office of Petitions

Cc: Roger D, Greer
GREER BURNS & CRAIN, LTD
300 South Wacker Drive- Suite 2500
Chicago, Illinois 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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1745 SHEA CENTER DRIVE, SUITE 330
HIGHLANDS RANCH CO 80129

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DEC 27 2006
OFFICE OF PETITIONS

In re Patent No.: 7,070,064 :
Issue Date: July 4, 2006 :
Application No. 10/766,647 : DECISION ON PETITION
Filed: December 21, 2001 :
Inventor: Rabinowitz et al. :

This patent has been referred to this office in view of the communication filed July 5, 2006, styled as a petition to resubmit a terminal disclaimer under 37 CFR 1.182, which is being treated as a petition under 37 CFR 1.181(no fee) to clarify the record.

The petition is granted.

Petitioner asserts, and provides convincing documentation in support of its assertion, that while on September 26, 2005, 5 terminal disclaimers captioned for the above identified application, and the requisite fees, were received by the USPTO, the USPTO Private PAIR Record of this file reveals that only 4 of the 5 were internally processed by the USPTO for this application. As such, petitioner requests that concurrently resubmitted, fifth disclaimer (that disclaims over U.S. Patent No. 6,855,310) be made part of the record herein.

In addition to the convincing showing provided by the copy of the itemized postcard receipt for 5 terminal disclaimers date stamped September 26, 2005, inspection of USPTO financial records for this application reveals that the fees for all 5 terminal disclaimers were processed on September 27, 2005, with an indicated mail room date of receipt of September 26, 2005. Apparently, and regretfully, the USPTO has misplaced the originally filed document. Accordingly, the resubmitted copy of the originally filed disclaimer is accepted as supplying a copy of an originally filed, but internally misplaced, document that has been made part of the USPTO record for this file. See MPEP 503 ("A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.")

The USPTO sincerely regrets its processing error and any inconvenience caused petitioner in this matter. As the record is adequately clarified by the petition and this decision, it is not necessary to otherwise correct the as-issued patent.

The $130 fee proffered with the petition is unnecessary and has been credited to counsel's deposit account as authorized.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SonoSite, Inc. / Fulbright & Jaworski, L.L.P.
2200 Ross Avenue
Suite 2800
Dallas, TX 75201

Mail Date: 04/21/2010

Applicant	: Jared Floyd	: DECISION ON REQUEST FOR
Patent Number	: 7588541	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/766,707	: 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 **1544** 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 E. Wagner, Esq.
LAW OFFICES OF JOHN E. WAGNER
3541 Ocean View Boulevard
Glendale, CA 91208

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OFFICE OF PETITIONS

In re Application of :

Carmen Rapisarda :

Application No. 10/766,709 : DECISION ON PETITION

Filed: January 27, 2004 :

Attorney Docket No. 01-7342-07

This is a decision on the petition under 37 CFR §1.137(b), January 22, 2008, 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 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed September 20, 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 December 21, 2007. A Notice of Abandonment was mailed on January 16, 2008.

The issue fee was received on January 22, 2008.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

WEST Search History for Application 10766711

Creation Date: 2008122019:19

Query	DB	Op.	Plur.	Thes.	Date
C. trachomatis	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
Chlamydia	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(Chlamydia) .clm.	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(Chlamydia .clm.) and (trachomatis)	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(Chlamydia .clm. and (trachomatis)) and (reduce or inhibit or eliminate)	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(Chlamydia .clm. and (trachomatis) and (reduce or inhibit or eliminate)) and (polypeptide)	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(Chlamydia .clm. and (trachomatis) and (reduce or inhibit or eliminate) and (polypeptide)) and (genital or vaginal)	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
Chlamydia	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(Chlamydia) .clm	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(Chlamydia) .clm.	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(Chlamydia .clm.) and (reduce or inhibit or eliminate)	PGPB, USPT, USOC, EPAB, JPAB,	ADJ	YES		12-20-2008

	DWPI				
(Chlamydia .clm. and (reduce or inhibit or eliminate)) and (genital or vaginal infection)	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(Chlamydia .clm. and (reduce or inhibit or eliminate) and (genital or vaginal infection)) and (mice)	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
L13and (intra vagi?)	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(L13and (intra vagi?)) and (intravaginal)	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(Chlamydia .clm. and (reduce or inhibit or eliminate) and (genital or vaginal infection) and (mice)) and polypeptide	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(Chlamydia .clm. and (reduce or inhibit or eliminate) and (genital or vaginal infection) and (mice) and polypeptide) and (trachomatis)	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(Chlamydia .clm. and (reduce or inhibit or eliminate) and (genital or vaginal infection) and (mice) and polypeptide and (trachomatis)) and (challenge)	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
JACKSON,JAMES.in.	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
JACKSON ,JAMES.in.	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
PACE, JOHN .in.	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(PACE, JOHN .in.) and (JACKSON ,JAMES.in.)	PGPB, USPT, USOC,	ADJ	YES		12-20-2008

	EPAB, JPAB, DWPI				
(PACE, JOHN .in.) and (Chlamydia .clm. and (reduce or inhibit or eliminate) and (genital or vaginal infection) and (mice) and polypeptide and (trachomatis) and (challenge))	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(PACE, JOHN .in. and Chlamydia .clm. and (reduce or inhibit or eliminate) and (genital or vaginal infection) and (mice) and polypeptide and (trachomatis) and (challenge)) and (JACKSON ,JAMES.in.)	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(PACE, JOHN .in. and Chlamydia .clm. and (reduce or inhibit or eliminate) and (genital or vaginal infection) and (mice) and polypeptide and (trachomatis) and (challenge)) and (JACKSON ,JAMES.in.)	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(Chlamydia .clm. and (reduce or inhibit or eliminate) and (genital or vaginal infection) and (mice) and polypeptide and (trachomatis) and (challenge)) and (JACKSON ,JAMES.in.)	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
l2o and (Chlamydia .clm. and (reduce or inhibit or eliminate) and (genital or vaginal infection) and (mice) and polypeptide and (trachomatis))	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(JACKSON ,JAMES.in.) and (Chlamydia .clm. and (reduce or inhibit or eliminate) and (genital or vaginal infection) and (mice) and polypeptide and (trachomatis) and (challenge))	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
(JACKSON ,JAMES.in.) and (chlamydia)	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
JACKSON, W. JAMES .in.	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
JACKSON,W. JAMES .in.	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008
JACKSON ?.in.	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008

(JACKSON ?.in.) and (Chlamydia .clm. and (reduce or inhibit or eliminate) and (genital or vaginal infection) and (mice) and polypeptide and (trachomatis) and (challenge))	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-20-2008

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Los Angeles CA 90025

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OFFICE OF PETITIONS

In re Patent No. 7,098,571	:
Issue Date: August 29, 2006	:
Application No. 10/766,720	: DECISION ON PETITION
Filed: January 27, 2004	: UNDER 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. 4341P053D2	:

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 10, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with items (1) and (3). Pursuant to petitioner's request deposit account no. 02-2666 will be charged the $1370.00 petition fee.

As to item (1), the amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i) and 37 CFR 1.78(a)(5)(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. Amendments to the specification, other than the claims, computer listings (§ 1.96) and sequence listings (§ 1.825), must be made by adding, deleting or replacing a paragraph, by replacing a section, or by a substitute specification, in the manner specified in 37 CFR 1.121.

The "amendment" fails to comply with 37 CFR 1.78 because the amendment fails to state the relationship between each application and includes unnecessary information interspersed between the claims for priority. Petitioner may wish to review MPEP 201.11 for a more detailed discussion of the proper format for amendments adding priority claims.

As to item (3), petitioner has failed to provide a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional.

The patent issued August 29, 2006. Therefore, any request for reconsideration must include $100 and a request for a certificate of correction. Petitioner should note the contents of MPEP 1481.03 prior to filing a request for consideration. MPEP 1481.03 states in part,

> Under no circumstances can a Certificate of Correction be employed to correct an applicant's mistake by adding or correcting a priority claim under 35 U.S.C. 119(e) for an application filed on or after November 29, 2000...
>
> Under certain conditions as specified below, however, a Certificate of Correction can still be used, with respect to 35 U.S.C. 120 priority, to correct:
> (A) the failure to make reference to a prior copending application pursuant to 37 CFR 1.78(a)(2); or
> (B) an incorrect reference to a prior copending application pursuant to 37 CFR 1.78(a)(2).
>
> Where priority is based upon 35 U.S.C. 120 to a national application, the following conditions must be satisfied:
> (A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;
> (B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and
> (C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

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

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

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

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

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

C. Steven Brantley
Senior Petitions Attorney
Office of Petitions

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1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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OFFICE OF PETITIONS

Decision on Petition

In re Patent of Adams et al.	:
Patent No. 7,098,571	:
Issue Date: August 29, 2006	:
Application No. 10/766,720	:
Filing Date: January 27, 2004	:
Attorney Docket No. 4341P053D2	:

This is a decision in response to the "Request for Refund Pursuant to 37 CFR §1.26(a)" filed January 15, 2009, which is being treated as a petition under 37 CFR 1.181.

The petition is **granted**.

The Office mailed a Notice of Allowance on April 7, 2006.

Petitioner filed the issue fee on July 10, 2006. Petitioner also filed a paper titled, "Cross-Reference Under 37 C.F.R. § 1.78(a)(2) to Related Applications" ("Cross-Reference") on July 10, 2006.

The Cross-Reference stated,

> Pursuant to 37 C.F.R. § 1.78(a)(2), applicants hereby cross-reference the following related patents and patent applications:
>
> (1) U.S. patent application no. 09/775,491, ... which claims the benefit of provisional patent application no. 60/179,912, ...;
>
> (2) U.S. patent application no. 10/766,087, ...;
>
> (3) U.S. patent application no. 09/231,062, ... which claims the benefit of provisional patent application no. 60/071,390, ...;
>
> (4) U.S. patent application no. 09/548,680, ... which is a divisional of U.S. patent application no. 09/231,082, ... which claims the benefit of provisional patent application no. 60/071,390;

(5) U.S. patent application no. 09/231,083, ... which claims the benefit of provisional patent application no. 60/071,569, ...;

(6) U.S. patent application no. 10/083,600, ... which is a divisional of U.S. patent application no. 09/231,083, ... which claims the benefit of provisional patent application no. 60/071,569;

If there are any charges not covered by any checks submitted, please charge Deposit Account No. 02-2666.

The Cross-Reference was treated as a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6). The petition was dismissed and the petition fee of $1,370 charged to petitioner's deposit account. A review of the record indicates the Cross-Reference should not have been treated as a petition. Therefore, the petition is granted and the fee of $1,370 has been credited back to petitioner's deposit account.

In addition to requesting a refund, Petitioner also requests entry of the Cross-Reference. The Cross-Reference has been placed in the file.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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COCHRAN FREUND & YOUNG LLC
3555 STANFORD ROAD
SUITE 230
FORT COLLINS, CO 80525

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JUL 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Steven O. Markel :
Application No. 10/766,723 : DECISION GRANTING PETITION
Filed: January 27, 2004 :
Attorney Docket No. INTE.32USU1(ITC36) :

This is a decision on the petition filed July 2, 2004, requesting that the above-identified application be accorded a filing date of January 27, 2004, instead of the presently accorded date of January 28, 2003.

Petitioner alleges that the application was deposited in "Express Mail" Service with the U. S. Postal Service (USPS) on January 27, 2004. In support, petitioner provides, *inter alia*, a copy of the "Express Mail" mailing label receipt No. EL975282287US, showing a "Date-In" of "01 27 04". The same Express Mail receipt number appears on the original transmittal letter found in the file.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the USPS on January 27, 2004.

The petition is GRANTED. Under the circumstances, no petition fee is required.

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 James M. Denaro 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. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Denaro 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 application is being returned to Initial Patent Examination Division for correction of the filing date to **January 27, 2004** and to issue a corrected filing receipt.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

cc: James M. Denaro
Morrison & Foerster LLP
1650 Tyson Blvd. Suite 300
McLean, VA 22102

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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DEC 14 2006

OFFICE OF PETITIONS

In re Application of

Steven O. Markel
Application No. 10/766,723
Filed: January 27, 2004
Attorney Docket No. 577172001900

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

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***, 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.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Marc Kaufman, Esq.**
Nixon Peabody, LLP
401 9th Street, N.W., Suite 900
Washington DC 20004

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OFFICE OF PETITIONS

OPTV/MOFO
c/o Morrison & Foerster LLP
1650 Tysons Boulevard, Suite 300
Mclean, VA 22102

In re Application of	:	
Steven O. Markel	:	
Application No. 10/766,723	:	DECISION ON PETITION
Filed: January 27, 2004	:	TO WITHDRAW
Attorney Docket No. 577172001900	:	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 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 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 April 3, 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: **Steven O. Markel**
3031 E. Wyecliff Way
Highlands Ranch, CO 80126

cc: **Marc Kaufman, Esq.**
Nixon Peabody, LLP
401 9th Street, N.W., Suite 900
Washington DC 20004

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/766,723	01/27/2004	Steven O. Markel	577172001900

CONFIRMATION NO. 3449

OC000000025124892

43997
OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

Date Mailed: 08/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2007.

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

Jessi Williams

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

FORMER ATTORNEY/AGENT COPY

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GEORGE A AUSTIN
120 W APRICOT AVE
SALT LAKE CITY UT 84103

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OFFICE OF PETITIONS

In re Application of George A. Austin Application No. 10/766,728 Filed: January 27, 2004 Title: Electrically Heated Mineral or Masonry Material Seat	: : : : :	ON PETITION

This is in response to the letter filed February 8, 2007, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonmdent.

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

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment, mailed July 6, 2006. This Notice set an extendable period for reply of one (1) month. No reply having been received, the application became abandoned on August 7, 2006. A Notice of Abandonment was mailed on February 1, 2007.

A review of the file reveals that the July 6, 2006 Notice, for reasons not apparent to the Office, was returned as undeliverable. Accordingly, it is obvious that the Office action was not received by Applicant.

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

The matter is being forwarded to Group Art Unit 3636 for re-mailing of the July 6, 2006 Notice of Non-Compliant Amendment, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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PO BOX 938
FORT SCOTT KS 66701

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OFFICE OF PETITIONS

In re Patent No. 6,986,953
Issue Date: January 17, 2006 :
Application No. 10/766,729 : DECISION ON PETITION
Filed: January 28, 2004 :

This is a decision on the petition to reinstate an expired patent under 37 CFR 1.378(c), filed March 26, 2010.

The petition under 37 CFR 1.378(c) is **GRANTED**.

The above-identified patent issued January 17, 2006. Accordingly, the first maintenance fee could have been paid during the period from January 17, 2009 through July 17, 2009 without surcharge, or with a late payment surcharge during the period from January 18, 2009 through January 17, 2010. No maintenance fee having been received, the patent expired on January 18, 2010.

Since the instant petition was filed 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 in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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JUN 09 2010

OFFICE OF PETITIONS

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

In re Application of	:	
John P. JACKAM, et al	:	
Application No. 10/766,740	:	DECISION ON PETITION
Filed: January 26, 2004	:	TO WITHDRAW
Attorney Docket No. 025000-00200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 12, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Minh-Quan K. Pham and all the attorneys of record, has been revoked by the assignee of the patent application on June 3, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/766,740	01/26/2004	John P. Jackam	025000-00200

CONFIRMATION NO. 2847

POA ACCEPTANCE LETTER

85110
Nyemaster, Goode, West, Hansell & O"Brien, P.C.
625 First Street SE
Suite 400
Cedar Rapids, IA 52401

OC000000042007626

Date Mailed: 06/09/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/03/2010.

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.

/dcgoodwyn/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/766,740	01/26/2004	John P. Jackam	025000-00200

CONFIRMATION NO. 2847

POWER OF ATTORNEY NOTICE

27557
BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

OC000000042007625

Date Mailed: 06/09/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/03/2010.

- 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).

/dcgoodwyn/

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

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Patterson Belknap Webb & Tyler, LLP
Attention: I.P. Docketing
1133 Avenue of the Americas
New York NY 10036

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OFFICE OF PETITIONS

In re Application of: :
Morimoto et al. : DECISION ON PETITION
Appl. No. 10/766,747 : UNDER 37 CFR 1.183
Filed January 28, 2004 :
Atty. Docket No. A0407-001592A:

This is a decision on petition filed under 37 CFR 1.47 on September 14, 2005 which is properly treated under 37 CFR 1.183[1] requesting suspension or waiver of the regulations (presumably 37 CFR 1.172) that require the inventors to sign any supplemental declaration in a broadening reissue application.

Petitioner requests waiver of the rule (presumably §1.172) that requires that the inventor sign any supplemental declaration in a broadening reissue application.

The petition is granted.

BACKGROUND

1. U.S. Patent No. 6,342,590 issued to Morimoto, Adachi, Matsunaga, Kashimura, Watanbe and Sota, on January 29, 2002.

2. A broadening reissue application (the present application) was filed for on January 28, 2004, and it was assigned application number 10/766,747.

3. During the prosecution of the application, the Office

[1] If a joint inventor refuses or cannot be found or reached to sign a supplemental oath/declaration, a supplemental oath/declaration listing all the inventors, and signed by all the available inventors may be filed provided it is accompanied by a petition under 37 CFR 1.183 along with the petition fee, requesting waiver of the signature requirement of the nonsigning inventor. MPEP 1414.01

required a supplemental reissue declaration directed to errors in the original patent which were corrected in the application after the signing of the original reissue declaration.

4. On September 14, 2005, applicant filed the present petition under 37 CFR 1.47 properly treated under 37 CFR 1.183 requesting suspension or waiver of the "regulations pertaining to the filing of a Supplemental Declaration under 37 C.F.R. § 1.175" that require a supplemental reissue declaration to be signed by the inventors.

5. The petition is accompanied by a "Supplemental Reissue Declaration," signed by five of the six inventors. It is for this supplemental declaration that the petition requests acceptance, via suspension or waiver of the regulations.

6. The petition proffers a showing, including a statement of facts by Keiko Koishi manager of assignee Taisho Pharamaceutical Company, Ltd., to establish that the inventor Matsunaga is unavailable to sign the supplemental reissue declaration. The petition and statement of facts, sets forth (a) the efforts made to contact each of the inventors and obtain their requisite signatures on the supplemental declaration, and (b) the lack of success of such efforts to obtain the signature of inventor Matsunaga.

DECISION

35 U.S.C. 251, which is directed to reissue, does not address the signature requirements of a declaration in reissue. 37 CFR 1.172 requires that a reissue declaration be made (and signed) by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. 37 CFR § 1.175(b)(1), requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit a supplemental oath or declaration stating that every such error arose without any deceptive intention on the part of the applicant."

37 CFR 1.175(b)(1), taken in conjunction with § 1.172, requires a supplemental declaration to be signed by all inventors. This is because all oaths or declarations necessary to fulfill the rule

requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signature of the inventor(s).

37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by all of the inventor.

The instant petition is accompanied by an appropriate showing that inventor Matsunaga is unavailable. Accordingly, the supplemental declaration, signed by five of the six inventors will be accepted as though it was signed by the inventor as required by 37 CFR 1.175(b)(1) taken in conjunction with § 1.172.

CONCLUSION

The present petition to waive 37 CFR 1.172 is granted. Pursuant to petitioner's request deposit account no. 16-0633 will be charged the $400.00 petition fee.

The application is being forwarded to Technology Center 1600 for further prosecution.

Please direct any questions related to this decision to the undersigned, at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

OIPE IAP43
SEP 14 2005
PATENT & TRADEMARK OFFICE

ZJW
DAC

EXPRESS MAIL LABEL NO.: EJ771306230US
ATTORNEY DOCKET NO.: A0407-001592A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Reissue Serial Number: 10/766,747	)	
Applicants: Shigeo Morimoto et al.	)	Group Art Unit: 1623
Filed: January 28, 2004	)	
In re Reissue Application of U. S. Patent No. 6,342,590	)	Confirmation No.: 3658
For: Erythromycin A Derivatives and Method for Preparing Same	)	Examiner: Elli Peselev

PETITION UNDER 37 C.F.R. §1.47

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

Madam:

1. Applicants hereby petition to submit a supplemental declaration in the above-referenced application signed by five of the six inventors on behalf of an inventor who refuses to sign this supplemental declaration.

2. Taisho Pharmaceutical Company, Ltd. is assignee of the entire interest in U.S. Patent No. 6,342,590, the invention described therein, and in any reissue thereof by assignment recorded at Reel 4770, Frame 0623, including the above-referenced application.

3. Ms. Keiko Koishi, Manager of Intellectual Property Division of Taisho Pharmaceutical Company, and the person who has direct knowledge of the facts, has provided a statement of facts to accompany this petition.

09/15/2005 SDENBOB1 00000049 160633 10786747
02 FC:1463 70.00 DA 130.00 OP
11/10/2005 AKELLEY 00000003 160633 10766747
01 FC:1462 400.00 DA

4. According to this statement of facts, one of the joint inventors, Mr. Tohru Matsunaga, refuses to sign a supplemental declaration for the above-referenced reissue application. This supplemental declaration has been signed by the other five joint inventors.

5. Mr. Tohru Matsunaga's current address is: 846-5 [2-212], Kokuki, Kuki-shi, Saitama 346-0001, Japan.

6. Because Mr. Matsunaga refuses to sign this Supplemental Reissue Declaration, Applicants request that the Office of Petitions grant this petition, so that the above-referenced application can be promptly allowed.

7. A check for the required petition fee of $130.00 has been enclosed for this petition. Please charge any additional required fees to our Deposit Account No. 16-0633.

Dated: September 14, 2005

Stuart E. Pollack
Reg. No. 43,862

Mailing Address:
Attention: IP Docketing
Patterson, Belknap, Webb & Tyler, LLP
1133 Avenue of the Americas
New York, New York 10036
(212)336-2000
(212)336-2222 fax
Customer No. 23723

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BEAVERTON, OR 97008

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OFFICE OF PETITIONS

In re Application of :
Geoffrey B. Rhoads :
Application No. 10/766,750 : ON PETITION
Filed: January 27, 2004 :
Attorney Docket No. P0925 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 27, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 28, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2624 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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SILICON VALLEY PATENT GROUP LLP
2350 MISSION COLLEGE BOULEVARD
SUITE 360
SANTA CLARA, CA 95054

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OFFICE OF PETITIONS

In re Application of	:	
Williams, et al.	:	
Application No. 10/766,774	:	ON PETITION
Filed: January 28, 2004	:	
Attorney Docket No. AAT007-3C US	:	

This is a decision on the papers styled, "Petition," filed on October 13, 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 28, 2004, including Figure 16A as described in the specification.

The application was filed on January 28, 2004. However, on August 11, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figures 16A and 17O described in the specification appear to have been omitted.

It is noted that Figure 17O is <u>not</u> described in the specification as filed on January 28, 2004 and that its' mention as omitted on that date is in error. As such, only Figure 16A is believed to be omitted on that date.

In response, on October 13, 2004 the instant petition and one (1) sheet of drawings (which include Figure 16A) were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "Drawings (219 sheets)," on January 28, 2004. A review of the application file indicates the presence of only two-hundred eighteen (218) sheets of drawings originally filed on January 28, 2004, with the sheet containing Figure 16A missing. It is assumed that the missing sheet of drawings containing Figure 16A was misplaced by the Office.

In view of the above, the petition is <u>granted</u>.

The $130.00 petition fee submitted on October 13, 2004 will be refunded to deposit account no. 50-2263.

This application will be returned to OIPE for processing with a filing date of January 28, 2004, using the one (1) sheet of drawings, containing Figure 16A, that was submitted with the petition on October 13, 2004.

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

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

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2350 MISSION COLLEGE BOULEVARD
SUITE 360
SANTA CLARA, CA 95054

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of	:
Richard K. Williams et al	:
Application No. 10/766,774	: DECISION GRANTING PETITION
Filed: January 28, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AAT007-3C US	:

This is a decision on the petition, filed August 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED** as moot.

A review of the file record reflects the following:

- A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed on January 26, 2006. The issue and publication fees were due on or before April 26, 2006.

- On April 19, 2006, the Office mailed out a Notice of Drawing Inconsistency with Specification, stating that "Figures 4D & 170 are listed in the Brief Description of the Drawings in the specification but not contained in the Drawings."

- On April 19, 2006, prior to the due date for payment of the issue fee, a Request for Continued Examination (RCE) and submission in accordance with 37 CFR 1.114 (an Information Disclosure Statement) were submitted.

- On May 11, 2006, an amendment and drawings were received.

- On June 26, 2006, Publishing Division mailed out a communication entitled "Response to Rule 312 Communication," stating that the amendment filed on May 11, 2006 was entered.

- On July 17, 2006, after the due date for payment of the issue and publication fees, the Office received the $1,400 issue fee and $300 publication fee.

- Thereafter, on August 18, 2006, the instant petition to withdraw from issue, RCE and Supplemental IDS were filed.

The filing of the instant petition to withdraw from issue and second RCE were unnecessary as the RCE filed on April 19, 2006 was effective to withdraw this application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

In view of the above, the $790 fee submitted for the second RCE on August 18, 2006, as well as the $130 petition fee, are unnecessary and will be refunded to petitioner's credit card in due course.

Additionally, as the issue fee was not submitted prior to the due date for payment therefor and further was unnecessary in view of the previous filing on April 19, 2006 of an RCE, this fee will also will be refunded to petitioner's credit card. If the application is again found to contain allowable subject matter, petitioner is advised that the issue fee must be paid prior to the due date to avoid the abandonment of the application.

This application is being referred to Technology Center AU 2822 for processing the RCE filed on April 19, 2006 and for taking action on the amendments and IDS, filed April 19, 2006, May 11, 2006, and August 18, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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65 LIVINGSTON AVENUE
ROSELAND NJ 07068

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FEB 16 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Scott MALAT, et al.
Application No. 10/766790
Filed: January 27, 2004

For: **METHODS AND SYSTEMS FOR MANAGING CALL REPORTS FOR THE FINANCIAL SERVICES INDUSTRY**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed January 27, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:

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

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

A review of the application file finds that a non-final Office action was mailed on February 1, 2007 setting forth a three month shortened statutory period for reply.

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In re Application of: Baba, et al.
Application No. 10/766,802
Filed: January 30, 2004
For: METHOD, APPARATUS, AND COMPUTER READABLE MEDIUM FOR MANAGING MULTIPLE SYSTEM

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

This is a response to the petition filed 18 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 18 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. At least some of the limitations purporting to distinguish independent claims 2 and 8 from the references are not in these claims. For example, for each reference it is stated that the reference does not teach a first feature "wherein the living party computer (first computer) detects whether the execution of a replica corresponding to a volume has been completed in a disk device of the living party computer" or a second feature "wherein responsive to the result of the detection of whether the execution of a replica corresponding to a volume has been completed in the disk device, transmitting to a standby party computer (second computer) a notice for informing standby party computer that a volume identifier stored in the volume subject to the execution of the replica has been changed". However, claims 2 and 8 do not require a "replica" or the determination of whether the execution of such a replica "has been completed". 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

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In re Application of: Baba, et al.
Application No. 10/766,802
Filed: January 30, 2004
For: METHOD, APPARATUS, AND COMPUTER READABLE MEDIUM FOR MANAGING MULTIPLE SYSTEM

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 27 June 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 18 March 2005.

The original 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.

The renewed petition identifies a feature of each independent claim (i.e., a first feature of independent claim 1, . . ., a third feature of independent claim 8). Although it is stated in the discussion of each reference that the reference "does not disclose or suggest" the identified feature for each independent claim "*in combination* with the other limitations recited in each of the independent claims" (emphasis added), the discussion does state that the references fail to teach or suggest the identified features without reference to the combination of limitations in the claims (pages 5-6). This statement on pages 5-6 of the discussion is a sufficient detailed description. 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.

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In re Application of: SATOYAMA, et al.
Application No. 10/766,823
Filed: January 30, 2004
For: STORAGE SYSTEM AND REPLICATION CREATION METHOD THEREOF

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

This is a response to the petition filed 10 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 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.

Applicant's submission meets all the criteria set out above. The statement repeated for each reference deemed most closely related in the discussion of each reference on pages 8-17 of the petition is sufficient in distinguishing how the claimed subject matter is patentable over the references. Accordingly, the petition is **GRANTED**.

It is noted that although the statement discussed above has been deemed sufficient, the petition as a whole is potentially confusing. In addition to the statement discussed above, the petition also identifies a first feature of independent claim 1 and a second feature of independent claim 11 and then states that "the prior art does not teach or suggest, at a minimum, the above-described features" (page 7 of the petition). The statement repeated for each reference on pages 8-17 is a subset of each of the first and second features. The petition is potentially confusing since the statement for each reference and the first and second features are of different scope and one could argue that it is not clear whether the statement is intended to distinguish the references or whether the first and second features are intended to distinguish the references. Accordingly, it is suggested that any future petitions be prepared so that there is no such potential confusion. Also, it is suggested that if the identical statement is being made to distinguish each reference from the claims, then the statement should simply be made once in the petition. (E.g., "None of the references disclose . . . .")

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
YABE, NORIO , et al
Serial No.: **10/766,838**
Filed: January 30, 2004
For: **DATA DISPLAY DEVICE, DATA DISPLAY METHOD AND COMPUTER PROGRAM PRODUCT**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, March 6, 2006, requesting acceptance of color drawings..

The petition requests that the color drawing identified in figure 4, be accepted in lieu of black and white drawings.

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

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

This petition did not indicate on the three sets of color drawings the Figure number, accordance with 37 CFR 1.84(t). The original petition was not signed by an attorney, please resubmit a signed petition along with the new drawings.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and include correction of the deficiency outlined above. The application will be held in the Technology Center for two months to await any request for reconsideration of this decision.

The petition is DENIED.

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DIRECTOR OFFICE
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In re Application of
YABE, Norio et al.
Serial No.: 10/766,838
Filed: January 30, 2004
For: **DATA DISPLAY DEVICE, DATA DISPLAY METHOD AND COMPUTER PROGRAM PRODUCT**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2) filed May 18, 2006, requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figure 4 be accepted in lieu of black and white drawings.

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

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

The petition is **GRANTED**.

Michael Horabik
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In re Application of: Sekine, et al.
Application No. 10/766,850
Filed: 30 January 2004
In re Application of: Lee, et al.
Application No. 10/677,925
Filed: October 1, 2003
For: STORAGE SYSTEM, STORAGE CONTROL DEVICE, AND DATA RELAY METHOD USING STORAGE CONTROL DEVICE

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

This is a decision on the petition filed 31 March 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

The petition filed 31 March 2005 fails to adequately meet requirement (e) as set forth above. Responsive to requirement (e), applicant must provide a "detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references." Petitioner should ensure that the above discussion is directed to *how the language of each of the independent claims are specifically distinguishable and patentable from the references* provided pursuant to requirement (d) supra.

Applicant's petition fails to discuss the **claimed limitations** with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). The petition, in section 5a, provides a description of each reference, and then in section 5b, it gives a general discussion of the "invention as recited in the claims". This discrete mention of the references and then the general allusion to the claimed features does not identify and discuss particular claim language in each of the independent claims that would show how the claimed subject matter is patentable over each of the references. Petitioner alludes to the limitation of "real volume is mapped to the second virtual volume" and the "second virtual volume is mapped to the first virtual volume" as a feature that distinguishes the invention from the prior art, however, this limitation is not present in each of the independent claims; specifically, claims 6 and 16 lack this feature.

Petitioner must show, with respect to each reference, how the claimed subject matter distinguishes from the prior art in accordance with the requirements of 37 CFR 1.111 (b) and (c). As part of the required "detailed discussion" of each reference, the petition needs to particularly point out certain independent-claim limitations in relation to the given reference and specify "how the claimed subject matter is patentable over the references."

Petition to Make Special **DISMISSED**.

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

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

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5/31/05

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TECHNOLOGY CENTER 2100

In re Application of: OZAKI, et al.
Application No. 10/766,850
Filed: January 30, 2004
For: STORAGE SYSTEM, STORAGE CONTROL DEVICE, AND DATA RELAY METHOD USING STORAGE CONTROL DEVICE

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 28 June 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 31 March 2005.

The Petition is **DENIED**.

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

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

. . .

(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 original petition was dismissed for failing to meet requirement (e).

The renewed petition filed 28 June 2005 also fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references still 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 petition identifies a numbered feature for each independent claim. The petition states that the cited references fail to teach or suggest these features "in combination with the other limitations recited in each of the independent claims" (pages 2-8 of the petition). This statement in effect states that the entirety of the independent claim is not disclosed by the reference. A statement that the entirety of each independent claim is not disclosed by the references purported to be "most closely related" is not a sufficient detailed description as to anticipation. The petitions fail to point out which particular feature or features are not

shown by the references such that the claims are not anticipated. I.e., regarding anticipation, stating that the references fail to show the claim in its entirety is simply a general allegation that does not comply with the requirements of 37 CFR 1.111(b) and (c).

Also, on page 3 of the petition, it is stated that "[t]o the extent applicable to the present Petition, Applicants submit that although the distinguishing feature(s) may represent a substantial portion of the claimed invention, the claimed invention including said feature(s) and their inter-operation provides a novel storage system and system and method related to or implemented in or by said storage system." It is not clear if the statement is applicable to the present petition or not. The language "to the extent applicable to the present Petition" gives no indication as to whether the statement actually applies in the instant application or not. Rather, this language is generic to practically any petition of this type and is not specific to the instant application. If the combination of elements referred to do in fact constitute a substantial portion of the claim, then this should be stated. Also, if the combination of elements is necessary because, e.g., there is a necessary interoperability among these elements, then this too should be stated and the reasons for the, e.g., necessary interoperability, discussed.

Petition to Make Special **DENIED**.

The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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OFFICE OF PETITIONS

In re Application of	:	
Kobata et al.	:	
Application No. 10/766,871	:	ON PETITION
Filed: 30 January, 2004	:	
Atty Dckt No. SECURING COMPUTER	:	
NETWORK COMMUNICATION USING A	:	
PROXY SERVER	:	

This is a decision on the petition filed on 6 June, 2005, under 37 CFR 1.137(a)[1] to revive the above-identified application which is first treated as a petition to withdraw the holding of abandonment.

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(a)" or "Renewed Petition to withdraw the holding of abandonment," or as discussed below "Renewed Petition under 37 CFR 1.137(b)."

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[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

The application became abandoned on 29 September, 2004, for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed on 28 July, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 6 April, 2005.

Petitioner asserts unavoidable delay in that the Notice mailed on 28 July, 2004, was never received because it was sent to an incorrect correspondence address.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioners asserts that the Office action mailed on 15 June, 2004, 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.[2] 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 action was lost in the mail (e.g. if the practitioner has a history of not receiving Office actions).

A review of the record reveals that the Notice to File Missing Parts of Nonprovisional Application was first mailed on 14 June, 2004, and was returned to the Office as undeliverable on 20 June, 2004. The Office action was remailed on 28 July, 2004, and was again returned as undeliverable on 6 August, 2004. However, the showing of record is that the Office action was properly addressed to Robert Gagne, Atabok, Inc., Suite 300, 29 Crafts Street, Brookline, MA 02446: the address provided in the

[2] 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).

application transmittal form filed on 30 January, 2004. As such, the showing of record is that the USPTO properly mailed the Office action to the address provided by petitioners, but that the address provided by petitioners was no longer valid. Failure to provide a proper correspondence address is not grounds for withdrawal of the holding of abandonment. As such, the showing is that there was no irregularity in the mailing of the Office action mailed on either 14 June or 28 July, 2004. Rather, petitioners failed to provide the Office with a current correspondence address. As such, the failure to receive the Office action is the fault of petitioners and not that of the Office. As such, the petition to withdraw the holding of abandonment is dismissed.

If petitioners have evidence that they attempted to provide the correct correspondence address to the Office prior to the mailing of the Office action mailed on 28 July, 2004, petitioners may wish to consider submitting said evidence with a renewed petition.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be

[3] 35 U.S.C. § 133.

> unavoidable, all other conditions of promptness in its rectification being present.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

As stated above, the showing of record is that the failure to receive the Office action mailed on 14 June or 28 July, 2004, occurred because petitioners failed to provide a proper correspondence address with the application papers filed on 30 January, 2004. A delay caused by the failure on the part of petitioner, or petitioner's representative, to provide the U.S. Patent and Trademark Office with a current correspondence address does not constitute an unavoidable delay.[7]

As the showing of record is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

REQUIRED REPLY

Petitioners have not provided the reply required by 37 CFR 1.137(a)(1) in that petitioners have not provided an executed

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[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[6] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[7] See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

oath or declaration and the late-filing surcharge required by the Notice mailed on 28 July, 2004. As petitioners state that no copy of the Notice was received, a copy is enclosed herewith for petitioners' use in preparing a reply. Any renewed petition should be accompanied by a proper reply to the Notice mailed on 28 July, 2004.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 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)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned 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).

Should petitioners decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $750.00 for a small entity.

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioners' convenience.

Although petitioners indicate that there is more than one inventor for this application, since no oath or declaration in compliance with 37 CFR 1.63 naming the inventive entity has been filed, the petition and change of correspondence address signed only by inventor Robert Gagne will be accepted at this time. After an oath or declaration naming the inventive entity has been filed, however, any papers filed thereafter must be properly signed by or on behalf of the inventive entity.

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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice mailed 28 July, 2004
Form PTO/SB/64
Privacy Act Statement

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

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

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SEP 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Hiroshi Kobata et al	:	
Application No. 10/766,871	:	ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. 11365-052001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed June 14, 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 August 15, 2004.

The statement of unintentional delay presented in the petition does not comply with the current rule. Effective December 1, 1997, 37 C.F.R. §1.137 (b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional" 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 C.F.R. §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.

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 12,2007

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/766,895 Patent No.: 7260045 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE — **Art Unit** 2627

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 12-18-06

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction on Patent No.: 7118200 B2 (10/766903

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

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

Should Claim 3 be entered as requested?

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:

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER
SPE

2853
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 12-18-06

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction on Patent No.: 7118200 B2 (10/766903)

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

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

Should Claim 3 be entered as requested?

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 1/9/07 — All changes apply.

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

☐ ~~Denied~~ — State the reasons for denial below.

Comments:

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER
SPE

2853
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark

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.
10/766,917	01/30/2004	Raghu M. Ramajois	8200.809	3981

7590 04/29/2008

Liniak, Berenato & White
Ste. 240
6550 Rock Spring Drive
Bethesda, MD 20817

EXAMINER
PILKINGTON, JAMES

ART UNIT	PAPER NUMBER
3682	

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FROM DIRECTOR'S OFFICE

APR 28 2008

TECHNOLOGY CENTER 3600

LINIAK, BERENATO & WHITE
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA, MD 20817

In re Application of
Raghu M. Ramajois et al.
Application No. 10/766,917
Filed: January 30, 2004
For: **GEAR HOUSING VENT**

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on Applicants' petition under 37 CFR 1.181 received on October 12, 2007 to have reconsidered and withdrawn the objection to the drawings under 37 CFR 1.83(a).

The Petition is **GRANTED.**

A review of the file record indicates that in a non-final Office action dated July 12, 2007 the drawings were objected to under 37 CFR 1.83(a) for not showing every feature of the claimed invention. Specifically, claims 4, 14 and 18 recite "said at least one hole through said sidewall includes two holes". The aforementioned Office action objected to the drawings for not showing this claimed feature.

By way of the instant petition, the applicants argue that figures 1 and 2 of the present invention show a pair of vent holes 15 provided along through a side wall surface of the vent tube 3.

A review of both the drawings and claims indicates that where claims 1, 7 and 17 require "at least one hole", dependent claims 4, 14 and 18 simply serve to further limit claims 1, 7 and 17 by in essence reciting "said at least one hole through said sidewall includes two holes". Figures 1 and 2 clearly show at least two holes. Accordingly, the drawings comply with 37 CFR 1.83(a). The objection to the drawings is hereby withdrawn. The case is currently before the Board of Patent Appeals and Interferences.

Summary: the Petition is **GRANTED.**

Any questions regarding this decision should be directed to Supervisory Patent Examiner Richard Ridley at 571-272-6917.

Katherine Matecki

Kathy Matecki, Director
Technology Center 3600
(571) 272-5250

TC

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United States Patent and Trademark Office
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JUN 29 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSON BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of
Thomas Patrick NOLAND, et al
Application No. 10/766,918
Filed: January 30, 2004
Attorney Docket No. 146712003900

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 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 Peter J. Davis on behalf of all attorneys of record who associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

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

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

There are no pending Office actions at the present time.

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

April Wise
Petitions Examiner
Office of Petitions

cc: THOMAS P. NOLAND
279 E. WARREN AVE.
FREMONT, CA 94539

cc: RAJ S. DAVE, PH.D.
DARBY & DARBY P.C.
1500 K STREET, N.W.
SUITE 250
WASHINGTON, D.C. 20005-1714

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/766,918	01/30/2004	Thomas Patrick Nolan	146712003900

CONFIRMATION NO. 3978

OC000000024103606

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 05/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/30/2007.

- 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

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SEP 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas Patrick Nolan	:	
Application No. 10/766,920	:	DECISION ON PETITION
Filed: January 20, 2004	:	TO WITHDRAW
Attorney Docket No. 146712004000	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 30, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on September 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: RAJ S. DAVE', PHD
DARBY & DARBY, PC
1500 K STREET, NW
SUITE 250
WASHINGTON, DC 20005-1714

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/766,920	01/30/2004	Thomas Patrick Nolan	146712004000

CONFIRMATION NO. 3979

OC000000025720687

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 09/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/06/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

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

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Goldwitz, David	:	DECISION ON PETITION
Application No. 10/766,947	:	TO WITHDRAW
Filed: January 30, 2004	:	FROM RECORD
Attorney Docket No. 037602-0109-01	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 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 Howard N. Shipley on behalf of all attorneys of record who are associated with Customer Number 22428.

All attorneys/agents associated with the Customer Number 22428 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.

David Bucci
Petitions Examiner
Office of Petitions

Cc: DAVID GOLDWITZ
P.O. BOX 260037
TAMPA, FL 33685

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Alan J. Lipton	: DECISION ON REQUEST FOR
Patent Number	: 7646401	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/766,949	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1748** 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.

LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON DC 20005-3960

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FEB 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Takei et al.	:	DECISION ON PETITION
Application No. 10/766,961	:	
Filed: January 30, 2004	:	
Atty Docket No. 402958/SOGA	:	

This is a decision on the "PETITION TO CORRECT PATENT APPLICATION PAPERS" filed September 22, 2006, pursuant to 37 CFR 1.53(e)(2) to request correction of the application papers present in the image file wrapper for the referenced patent application.

The petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO (2) MONTHS of the date of this decision in order to be considered timely. See 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136(a) or (b).

Application papers in the above-identified application were deposited on January 30, 2004. However, on June 14, 2004, the Initial Patent Examination Division mailed applicants a NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION notifying applicants, among other things, that the application papers had been accorded a filing date of January 30, 2004; however, figures 13, 14 and 15 described in the specification appeared to have been omitted. As to this omission, the Notice set a two-month non-extendable period for response.

Applicants did not file a response within the two months. Applicants, thereby, constructively accepted the application as

deposited in the USPTO. More than 2 years later, applicants now file a petition stating that through error and oversight, and unintentionally, the comment (in the Notice) concerning the figures was not given attention and no response was made to the statement in the Notice that Figures 13-15 of the present application appeared to be missing.

Petitioner maintains that the application as filed on January 30, 2004 included 38 pages of specification, two pages of claims and eight sheets of drawings. In addition, petitioner states a preliminary amendment, an Information Disclosure Statement and a priority document were filed. In support thereof, petitioner states that they are submitting copies of postcard receipts, one hand-carried and one returned by mail[1].

Moreover, petitioner contends that the preliminary amendment included two sheets of drawings with the legend "Replacement Sheet." Whereas the original 8 sheets of drawings included a heading identifying the patent application by title, the first-named inventor, and other identifying information. Petitioner maintains that the Office disassembled the preliminary amendment to prepare the image file wrapper and in doing so, the replacement drawing sheets became or were intermixed with the original drawing sheets, with the inadvertent discarding of the original seventh and eighth sheets of drawings. To support the likelihood of such an event having occurred (and generally to errors having been made in the handling of this patent application), petitioner points to a similar event in another application and to strange entries in the transaction history of this case in Private PAIR.

Petitioner's arguments have been considered, but not found persuasive that figures 13, 14 and 15 as alleged were filed as a part of the original application papers. Papers not present in the application file are not considered present in the application absent convincing evidence to the contrary (e.g., a postcard receipt under MPEP § 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.)

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[1] However, only one postcard receipt is present on filing of the petition.

The image file wrapper of the application has been reviewed and the figures described as original figures 13, 14 and 15 (without replacement legends) are not among the papers received on January 30, 2004. Petitioner's evidence is not convincing. A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that the papers filed therewith were date stamped as received in the USPTO on January 30, 2004 and assigned application No. 10/766961. Further, the papers included "No. Sheets of Drawings: 8" and a "Preliminary Amendment." However, this evidence does not establish petitioner's contention. There is no dispute that 8 sheets of drawings and a preliminary amendment are present in the application. Rather, the dispute pertains to the sheets containing figures 13, 14 and 15 and the contents of the preliminary amendment. Consistent with the postcard, the Office considers as deposited 8 sheets of drawings and a preliminary amendment. As the number of pages of the preliminary amendment is not set forth on the receipt, it does not serve as *prima facie* evidence that the sheets of drawings were present in both forms and that sheets 7 and 8 were inadvertently discarded by the Office.

Nor are petitioner's arguments with respect to errors in this application or in other applications persuasive. Just because there may have been some error in a subsequent unrelated clerical entry in the transaction history in PAIR does not mean that there was an error in the initial scanning (or assembly) of the application. Petitioner has not shown a relationship between the noted data entry function and the initial scanning (or assembly) of the case. It is not as if petitioner is arguing that the Office erred in scanning in, for example, the pages of specification and thus, the Office also likely erred in scanning in the pages of drawings.

With respect to the error related to another application, it is related to scanning (or assembly) of the application but the circumstances are distinguishable. Notably, unlike in this case, a review of the image file wrapper shows that copies of both the original drawings and the drawings accompanying the preliminary amendment were present in the application on the date of filing. Thus, the record supports a conclusion that all drawings were present and that the Office erred in associating

some figures as original drawings that were in fact replacement sheets. Here, both the record and the evidence support a conclusion that only the replacement sheets for figures 13, 14 and 15 were received in the Office.
Having considered the arguments and evidence, it is concluded that petitioner has not shown that the figures submitted on petition were part of the original application disclosure. Accordingly, the petition must be dismissed.

Receipt of the $400 petition fee is acknowledged.

The application as deposited will be examined in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

COPY MAILED

AUG 1 4 2008

OFFICE OF PETITIONS

In re Application of

Edward A. Hubbard, et al.
Application No. 10/766,972
Filed: January 29, 2004
Attorney Docket No. 40988-P001P2D1

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 31, 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 Terri Williams at 571-272- 2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Univa UD**
9737 Great Hills Trail
Suite 300
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Fish & Richardson, P.C.
One Congress Plaza
Suite 810
111 Congress Avenue
Austin, TX 78701

MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Edward A. Hubbard, et al.	:	
Application No. 10/766,972	:	DECISION ON PETITION
Filed: January 29, 2004	:	TO WITHDRAW
Attorney Docket No. 40988-P001P2D1	:	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 6, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Fish & Richardson, P.C. has been revoked by the assignee of the patent application on January 16, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **McDonnell Boehnen Hulbert & Berghoff LLP**
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

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

Paper No. None

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

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OCT 0 6 2005
OFFICE OF PETITIONS

In re Application of
J. Mattern
Application No. 10/766,975
Filed: January 29, 2004
Attorney Docket Number: 770P011373-US (PAR)
Title: DYNAMIC ALLOCATION OF POSTAL SECURITY DEVICES

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

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed on May 13, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed application number 60/516,798, filed on November 3, 2003, set forth in the concurrently filed amendment.

The petition is **Granted**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional

application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/516,798, which was filed on November 3, 2003, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR .78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition. Any questions concerning this matter may be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

This application is being referred to the Office of Initial Patent Examination for pre-examination processing.

Frances Hicks

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

Encl. Corrected filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

DORSEY & WHITNEY LLP
555 CALIFORNIA STREET
SUITE 1000
SAN FRANCISCO CA 94104

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APR 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Gallop et al.	:	DECISION ON APPLICATION
Application No. 10/766,990	:	FOR
Filed: January 28, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
34544/US/2/AMP/SKS	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT" filed December 22, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b)(3)(B)(i) be corrected from four hundred twenty-five (425) days to four hundred thirty (430) days.

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

On September 26, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 425 days. On December 22, 2006, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the period of reduction of 5 days associated with the response received September 6, 2006. Applicants point to the Certificate of Mailing dated August 31, 2006 on the response. Applicants argue that given the date of the certificate of mailing no reduction should have been entered.

[1] PALM records indicate that the Issue Fee payment was also received on December 22, 2006.

The record supports a conclusion that the application is not subject to a terminal disclaimer.

Applicants are incorrect. 37 CFR § 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), 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. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

The issue in determining whether an applicant has failed to engage in reasonable efforts to conclude prosecution within the meaning of §1.704(b) is whether applicant has caused their response to be received in the Office within 3 months of the mailing date of the Office communication. The issue is not timeliness. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period. 37 CFR 1.7 is relevant for determining timeliness and is not relevant to a determination of whether applicant has failed to engage in reasonable efforts to conclude prosecution or examination. By definition, filing a paper outside of the three-month period is a failure to engage.

As stated in MPEP 2731, applicants may wish to consider the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicants may choose to mail

correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period.

Accordingly, pursuant to § 1.704(b), the period of adjustment was properly reduced by 5 days, the number of days, beginning on September 2, 2006, the day after the date that is three months after the date of mailing of the non-final Office action, and ending on September 6, 2006, the date of filing of the reply.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is four hundred twenty-five (425) days.

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

The application is being forwarded to the 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DIW May-08

THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
P.O. BOX 1967
MIDLAND MI 48641-1967

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MAY 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Wani et al.	:	
Application Number: 10/767011	:	ON PETITION
Filing Date: 01/29/2004	:	
Attorney Docket Number: 62485B	:	
	:	

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on April 17, 2008.

The petition is **granted**.

This application became abandoned on April 11, 2008, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on January 10, 2008, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on April 23, 2008.

Receipt of the issue and publication fees submitted with the present petition is acknowledged.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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 being referred to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

United States
Patent And
Trademark Office

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

PETITION DECISION

07/15/04

Kami Lammon-Hilinski
Kirkpatrick & Lockhart, LLP
535 Smithfield Street
Pittsburgh, PA 15222-2312

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/767014 received on 06/18/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King
Signature of Reviewer, Office of Pre-Grant Publication

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/13/09

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 10767014
Patent No.: 7416696

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
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

Thank You For Your Assistance

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

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

Comments: Correction of Inventorship

Roy Van King
SPE

1793
Art Unit

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

HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 04/21/2010

Applicant	: Kartik B. Ariyur	: DECISION ON REQUEST FOR
Patent Number	: 7580812	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/767,034	: 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 **1609** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,051	01/29/2004	Young-Chin Chen	U 015013-0	4814

140 7590 12/08/2008
LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NY 10023

EXAMINER
KHAN, AMINA S

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
12/08/2008	PAPER

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

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

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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12/8/08 wk

In re Application of	:	
Young-Chin Chen	:	
Serial Number: 10/767,051	:	DECISION
Filed: January 29, 20004	:	ON
For: Process For Producing Synthetic Fiber Fabric	:	PETITION
Having Translucent Printing (Dyeing) Patterns	:	
And Fabric Thus Obtained		

This is in response to the petition filed October 22, 2008, under 37 C.F.R. 1.91(3) to Accept Specimen. 37 C.F.R. 1.91 refers to models or exhibits not generally admitted as part of the application or patent.

§ 1.91 Models or exhibits not generally admitted as part of application or patent.

(a) A model or exhibit will not be admitted as part of the record of an application unless it:

(1) Substantially conforms to the requirements of § 1.52 or § 1.84;

(2) Is specifically required by the Office; or

(3) Is filed with a petition under this section including:

(i) The fee set forth in § 1.17(h); and

(ii) An explanation of why entry of the model or exhibit in the file record is necessary to demonstrate patentability.

(b) Notwithstanding the provisions of paragraph (a) of this section, a model, working model or other physical exhibit may be required by the Office if deemed necessary for any purpose in examination of the application.

(c) Unless the model or exhibit substantially conforms to the requirements of § 1.52 or § 1.84 under paragraph (a)(1) of this section, it must be accompanied by photographs that show multiple views of the material features of the model or exhibit and that substantially conform to the requirements of § 1.84.

A review of the record does not indicate that the examiner requested a specimen. Applicant asserts that the specimen is a piece of fabric produced by the claimed process which demonstrates the features illustrated in Addendum (Fig. 1b) of the Amendment of September

26, 2008 and is being submitted to assist the Examiner in understanding the claimed invention.

It is not clear why entry of the specimen is necessary to demonstrate patentability as required under 37 C.F.R. 1.91(3) (ii).

The Petition is **Dismissed**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

John Richards
LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK NY 10023

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Paper No. None

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

FAX RECEIVED
CANCELLED
FEB 08 2005

OFFICE OF PETITIONS

In re Application of
Tony Peled, Avi Treves, and Oren Rosen
Application No. 10/767,064
Filed: January 29, 2004
Attorney Docket No. 24024-506
Title: EX-VIVO EXPANSION OF HEMATOPOIETIC SYSTEM CELL POPULATIONS IN MONONUCLEAR CELL CULTURES

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

COPY MAILED
FEB 08 2005
OFFICE OF PETITIONS

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed November 12, 2004.

On January 29, 2004, the application was deposited, identifying Tony Peled, Avi Treves, and Oren Rosen as joint inventors. A non-executed declaration was included on filing. On June 15, 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 $65.00 were required. This Notice set a two-month period for reply.

With the instant petition, Petitioner has submitted the petition fee, the last known address of non-signing inventor Rosen, the surcharge, and a three-month extension of time to make timely this response.

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

Petitioner has met each of the 5 requirements above.

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

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

After this decision is mailed, the application will be forwarded to Technology Center 1600 for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

FAX RECEIVED
FEB 08 2005

CANCELLED

OFFICE OF PETITIONS

Oren Rosen
714 Moshe Kol Street
93 715 Jerusalem
ISRAEL

In re Application of

Tony Peled, Avi Treves, and Oren Rosen
Application No. 10/767,064

Filed: January 29, 2004
Attorney Docket No. 24024-506
Title: EX-VIVO EXPANSION OF HEMATOPOIETIC SYSTEM CELL POPULATIONS IN MONONUCLEAR CELL CULTURES

LETTER

Dear Mr. Rosen:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

cc: MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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 2 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL RD., SUITE 370
ALEXANDRIA, VIRGINIA 22314

In re Application of: MINOWA
Application No. 10/767,074
Filed: January 30, 2004
For: DEVICE AND METHOD FOR PERFORMING INFORMATION PROCESSING USING PLURALITY OF PROCESSORS

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

This is a decision to the petition filed May 13, 2005, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination; to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

Brian L. Johnson
Special Program Examiner 7/18/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

AWK
AWK

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/22/05

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction on Patent No.: 6,849,327

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

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.

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

Comments:

Oath includes claim for priority. Priority document received in 09/221,227.

TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER

SPE

1762
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

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

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SEP 22 2005

OFFICE OF PETITIONS

In re Patent No. 6,849,307 :
Issued: February 1, 2005 : DECISION ON PETITION
Application No. 10/767,103 :
Filed: January 28, 2004 :
Dkt. No.: 750034.427C3 :

This is a decision on the "PETITION TO ACCEPT UNINTENTIONAL DELAY OF PRIORITY CLAIM UNDER 37 CFR 1.55," filed November 10, 2004.

The instant application matured into U.S. Pat. No. 6,849,307 on February 1, 2005. A request for certificate of correction (and the required $100.00 fee) was filed July 26, 2005.

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;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

Provided the provisions of 37 CFR 1.55(c) are met, a certificate of correction under 35 U.S.C. 255 and 37 CFR 1.323 may be requested and issued in order to perfect a claim for foreign priority benefit in a patented continuing application if the requirements of 35 U.S.C. 119(a)-(d) or (f) had been satisfied in the parent application prior to issuance of the patent and the requirements of 37 CFR 1.55(a) are met.

The instant application has been reviewed and found in compliance with the provisions of 37 CFR 1.55(c). Accordingly the petition under 37 CFR 1.55(c) is hereby **GRANTED**.

Accordingly, this application is being forwarded to the Certificate of Corrections Branch for action on the request submitted July 26, 2005.

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

Frances Hicks

Frances Hicks
Lead 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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ALEXANDRIA, VA 22313-1450
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LAW OFFICES OF THOMAS E. SCHATZEL
A PROFESSIONAL CORPORATION
16400 LARK AVENUE, SUITE 240
LOS GATOS, CA 95032-2547

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OFFICE OF PETITIONS

In re Application of	:	
EDINGER	:	
Application No.: 10/767,119	:	DECISION ON PETITION
Filing Date: January 28, 2004	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: SS-748-01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 23, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed May 24, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on August 25, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee 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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P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 22 2005

TECHNOLOGY CENTER 3600

ST. ONGE STEWARD JOHNSTON
& REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

In re application of
Walter Jones
Application No. 10/767,131
Filed: January 29, 2004
For: TABLECLOTH COVERING AND METHOD OF COVERING AND SKIRTING A TABLE

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed August 22, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed August 22, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

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

KJD/dcg: 8/31/05

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WAGNER, ANDERSON & BRIGHT, LLP
3541 OCEAN VIEW BLVD
GLENDALE CA 91208

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OFFICE OF PETITIONS

In re Application of	:	
Nathan C. MARTIN	:	
Application No. 10/767,155	:	DECISION ON PETITION
Filed: January 28, 2004	:	
Attorney Docket No. RLA35.093	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 05, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability, mailed March 14, 2008, which set a period for reply of three (3) months. Accordingly, this application became abandoned on June 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the corrected drawings; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the corrected drawings are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PRO-TECHTOR INTERNATIONAL
20775 Norada Court
Saratoga CA 95070-3018

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OFFICE OF PETITIONS

In re Application of	:	
Alex Kuo-Shen Wang	:	
Application No. 10/767,159	:	DECISION ON PETITION
Filed: January 28, 2004	:	
Attorney Docket No. 1211050	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 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 August 2, 2006, 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 November 3, 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 a request for continued examination, $395 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of August 2, 2006 is accepted as being unintentionally delayed.

Petitioner has submitted the petition to revive and the RCE in a single document. Petitioner should in the future comply with the provisions of 37 CFR 1.4(c) since each distinct subject should be contained in a separate paper to avoid confusion and delay in processing papers dealing with different subjects.

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

Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. A copy of this decision is being mailed to the address noted on the petition. However, until otherwise properly instructed, all future correspondence will be mailed to the above-noted address of record.

This application is being referred to Technology Center AU 2853 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received November 3, 2006 (certificate of mailing date of October 31, 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

cc:

Ralph Willgohs
Pro-TECHTOR INTERNATIONAL SERVICES
20775 Norada Court
Saratoga, CA 95070-3018

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

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OFFICE OF PETITIONS

In re Application of	:
William Setter et al.	:
Application No. 10/767,190	: DECISION ACCORDING STATUS
Filed: January 30, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 119508-00102	:

This is in response to the petition filed December 14, 2004 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on January 30, 2004, naming William Setter and Vankata Ramana Srinivasa Hogirala as joint inventors but without a signed declaration. Accordingly, on June 15, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, an oath or declaration executed only by joint inventor Hogirala, the instant petition under 37 CFR 1.47(a) and a request for a four month extension of time was filed. The petition argues that joint inventor Setter 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. Setter and that he has verbally, in a conversation with an employee of the assignee, Lawrence T. Rupert, refused to sign the oath or declaration or to cooperate 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.

This matter will be referred to Technology Center 3721 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Sato, et al.
Application No. 10/767,196
Filed: January 30, 2004
For: DISK ARRAY DEVICE HAVING SPARE DISK DRIVE AND DATA SPARING METHOD

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

This is a response to the petition filed 16 March 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

ds

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PILLSBURY WINTHROP LLP
2475 HANOVER STREET
PALO ALTO, CA 94304-1114

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AUG 26 2004
OFFICE OF PETITIONS

In re Application of	:	
Oron, et al.	:	
Application No. 10/767,218	:	ON PETITION
Filing Date: January 29, 2004	:	
Docket No.: 009584-0307530	:	

The above-identified application has been referred to the Office of Petitions for consideration of the "PETITION TO CORRECT FILING DATE," filed July 13, 2004. This petition is being treated under 37 CFR 1.10(c) as a petition to accord the above-identified application a filing date of January 28, 2004.

Petitioners allege that the application was deposited into USPS Express Mail service on January 28, 2004.

Paragraph (a) of 37 CFR 1.10 states that:

> "(1) Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.
> (2) The date of deposit with USPS is shown by the "date in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a)."

Paragraph (c) of 37 CFR 1.10 states that:

"Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express

Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit."

The instant petition lacks (2) and (3) set forth above.

As to item (2), petitioner has not provided the "Express Mail" label number in question thus it cannot be established that the "Express Mail" mailing label in question corresponds with the Certificate of Express Mailing contained in the application papers received by the Office.

As to item (3), while the petition references the submission of a copy of the "Express Mail" label in question, review of the official application file does not indicate receipt of the label.

Any renewed petition must establish the manner in which the application papers were submitted and must comply with the requirements of 37 CFR 1.10(c).

Any request for reconsideration of this decision must be filed within two (2) months of the mail date of the instant decision to be considered timely. See, 37 CFR 1.181(f). This time period may not be extended under 37 CFR 1.136.

The required petition fee of $130.00 has been charged to deposit account No. 50-2213.

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

By mail:

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

By facsimile: (703) 872-9306

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310. Telephone inquires after September 27, 2004 should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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PILLSBURY WINTHROP LLP
2475 HANOVER STREET
PALO ALTO, CA 94304-1114

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OFFICE OF PETITIONS

In re Application of :
Oron, et al. :
Application No. 10/767,218 : ON PETITION
Filing Date: January 28, 2004 :
Docket No.: 009584-0307530 :

This decision is in response to the renewed petition filed August 26, 2004 requesting that the above-identified application be accorded a filing date of January 28, 2004. This petition is being treated under 37 CFR 1.10(c) as a petition to accord the above-identified application a filing date of January 28, 2004. This petition is also being treated under 37 CFR 1.26 as a request for refund of duplicate petition fee.

DECISION UNDER 37 CFR 1.10(c)

Petitioners continue to allege that the application was deposited in USPS Express Mail service on January 28, 2004. The renewed petition is accompanied by supporting evidence. Petitioners have provided a copy of the customer copy of the USPS Express Mail Label bearing tracking number EV342415545US (the same Express Mail number found on the application transmittal letter accompanying the original application papers located in the official file). The label bears a USPS postage mark of January 28, 2004.

In view of the above, the petition under 37 CFR 1.10(c) to accord the above-identified application a filing date of January 28, 2004 is hereby **GRANTED**.

DECISION UNDER 37 CFR 1.26

In accordance with 37 CFR 1.26, the Director may refund any fee paid by mistake or in excess of that required. Review of Office finance records reveals that petitioners were charged twice for the instant petition. Accordingly, a refund is in order.

Moreover, as petitioners have established to the satisfaction of the Director that the application papers were in fact deposited in USPS Express Mail service on January 28, 2004, no petition fee is due in regard to this matter. Thus, a refund of $260.00 to deposit account No. 50-2213 has been requested on petitioners behalf.

The request for refund is hereby **GRANTED**.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310. Telephone inquires after September 27, 2004 should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Application of	:	
KUO, Yi-Lung	:	
Application No. 10/767,225	:	DECISION ON PETITION
Filed: January 28, 2004	:	TO WITHDRAW
Attorney Docket No. 23724-07838	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. 1.36(b), filed February 1, 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 Robert A. Hulse 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: **YI-LUNG KUO**
5F NO. 51, JENG RUNG ST.
KEELUNG, TAIWAN

cc: **JAN-HWA INTERNATIONAL PATENT &**
TRADEMARK LAW OFFICES
ATTN: VINCENT LEE
10-1FL.,NO. 23 SEC.1. CHANG-AN E. RD.
TAIPEI, TAIWAN, R.O.C.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIP H. ALBERT
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Welch et al.	:	DECISION ON PETITION
Application No. 10/767,227	:	TO WITHDRAW
Filed: January 28, 2004	:	FROM RECORD
Attorney Docket No. 50269-0721	:	

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 13, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on October 24, 2005 the power of attorney was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the 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: Hickman Palermo Truong & Becker
LLP/Yahoo! Inc.
2055 Gateway Place
Suite 550
San Jose CA 95110-1083

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

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APR 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Gary W. King et al	:	
Application No. 10/767,244	:	DECISION GRANTING PETITION
Filed: January 27, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. P0004372.06	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2008, to revive the above-identified application. This is also a decision on the petition to expedite under 37 CFR 1.182, filed April 7, 2008.

The petitions are **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed August 24, 2007, is accepted as having been unintentionally delayed..

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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DEC 14 2005

Technology Center 2100

In re Application of WATANABE	:	
Application No.: 10/767,247	:	DECISION ON PETITION
Filing Date: January 28, 2004	:	FOR ACCELERATED
For: METHOD AND APPARATUS FOR	:	EXAMINATION UNDER
COPYING AND BACKUP IN STORAGE	:	M.P.E.P. §708.02(VIII)
SYSTEMS	:	

This is a decision on the petition filed October 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 October 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

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: 06/04/2010

Applicant	: Edward G. Tiedemann JR.	: DECISION ON REQUEST FOR
Patent Number	: 7626922	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/767,250	: 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 **1458** 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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ANDREW T. SERAFINI
WOODCOCK WASHBURN LLP
999 THIRD AVENUE, SUITE 3600
SEATTLE, WA 98104-4038

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JAN 11 2008

OFFICE OF PETITIONS

In re Application of :
Gerry R. Boss et al :
Application No. 10/767,251 : ON PETITION
Filed: January 28, 2004 :
Attorney Docket No. BUCSD 102986 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 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 October 10, 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 November 11, 2006.

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.

The change of address received January 7, 2008 is not accepted; an appropriate power of attorney is needed. While a courtesy copy of this decision is being mailed to the person signing the instant petition and the person signing the change of address of January 7, 2008, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

This matter is being referred to Technology Center AU 1641 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Laurie Axford
Gordon & Rees LLP
101 West Broadway, Suite 1600
San Diego, CA 92173

cc: Andrew T. Serafini
Woodcock Washburn LLP
CIRA Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104-2891

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 3/4/08

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/767267 Patent No: 7292206 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: _____

RICHARD HUERTA
SUPERVISORY PATENT EXAMINER

2629

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/4/08

Paper No.: —

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/767267 Patent No: 7292206B2

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: _____

RICHARD HUERTE
SUPERVISORY PATENT EXAMINER
TECH[illegible]

SPE — 2629 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUANE MORRIS LLP
101 WEST BROADWAY, SUITE 900
SAN DIEGO, CA 92101

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OFFICE OF PETITIONS

In re Patent No. 7,012,021 :
Issue Date: March 14, 2006 :
Application No. 10/767,276 : ON PETITION
Filed: January 29, 2004 :
Attorney Docket No. TS02-1330 :
N1085-90137

This is a decision on the request under 37 CFR 3.81(b), filed December 20, 2006, 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.

As authorized, the $130 fee for the request under 37 CFR 3.81(b) will be charged to petitioner's deposit account.

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

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

Pamela R. Crocker
Patent Legal Staff
Eastman Kodak Comany
343 State Street
Rochester, NY 14650-2201

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NOV 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Mizukoshi et al. :
Application No. 10/767,288 :
Filed: January 28, 2004 : ON PETITION
Attorney Docket Number: :
87113RLO :

This is a decision on the Petition for Grant of Filing Date, filed October 22, 2004, requesting the above-identified application be accorded a filing date of January 28, 2004, including one page of claims and 6 pages of drawings.

The petition is **granted**.

The application was filed on January 28, 2004. However, on October 6, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice"), noting that the application had NOT been accorded a filing date because the application did not include at least one claim, and the application was deposited without drawings.

In response, Petitioner files the instant petition wherein Petitioner avers that one page of claims and 6 pages of drawings were included among the application papers originally filed on January 28, 2004, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *intern alia*, one page of claims and 6 pages of drawings, filed on January 28, 2004.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of, *intern alia*, one page of claims and 6 pages of drawings, filed on January 28, 2004. Petitioner has also re-submitted one page of claims and 6 pages of drawings 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.

Accordingly, the petition is granted. The copies of one page of claims and 6 pages of drawings, supplied with the instant petition on October 22, 2004, will be used for examination purposes.

No fee has been charged and none is due.

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 28, 2004, and an indication that one page of claims and 6 pages of drawings were included among the application papers originally filed on January 28, 2004.

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

Derek L. Woods
Attorney Advisor
Office of Petitions

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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DEC 14 2005

OFFICE OF PETITIONS

In re Application of :
P. Mark Powell, et al. :
Application No. 10/767,293 :
Filed: January 29, 2004 :
Attorney Docket No. VTN-5039-USA-NP :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed August 19, 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 June 15, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 16, 2004.

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

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

Retta Williams

Retta Williams
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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AUG 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Zheng et al.	:	
Application No.: 10/767298	:	
Filing or 371(c) Date: 01/28/2004	:	DECISION
Attorney Docket Number: 108298714US	:	ON PETITION

This is a decision in response to the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action ," filed April 3, 2006. The petition is properly treated under 37 CFR §1.181(a). The delay in treating this petition is regretted.

The petition is **granted**

The above-identified application became abandoned for failure to timely/properly reply to the Notice of Allowance and Issue Fee Due, mailed October 31, 2006. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on February 1, 2006. A Notice of Abandonment was mailed March 28, 2006.

With the present petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

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

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2891 for re-mailing of the Notice of Allowance and Issue Fee Due and Notice of Allowability.

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

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/21/06

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/767309__ Patent No. 6867367

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

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

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

SPE

2831

Art Unit

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Dykema Gossett, PLLC
Suite 300 West
1300 I Street, N.W.
Washington, DC 20005-3306

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JUL 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Dana Aylor	:	
Application No. 10/767,337	:	DECISION ON PETITION
Filed: January 30, 2004	:	TO WITHDRAW
Attorney Docket No. 066448-0014	:	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 9, 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 Adesh Bhargava on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There is an outstanding Office action mailed June 4, 2007 that requires a reply from the applicant.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Dana Aylor**
61-18 Cooper Avenue
Glendale, NY 11385

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/767,337	01/30/2004	Dana Aylor	066448-0014

CONFIRMATION NO. 8260

OC000000024846884

Dykema Gossett, PLLC
Suite 300 West
1300 I Street, N.W.
Washington, DC 20005-3306

Date Mailed: 07/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/09/2007.

- 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.

Terri Williams

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

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

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

In re Patent No. 7,412,110	: ON PETITIONS under
Issued: August 12, 2008	: 37 CFR 1.183 and ON REQUEST
Application No. 10/767,385	: FOR RECONSIDERATION OF
Filed: January 28, 2004	: PATENT TERM ADJUSTMENT
Dkt. No.: 07844-628001	:

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits an Application 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) Application for Patent Term Adjustment under 37 CFR 1.705(d), both filed on December 22, 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 August 12, 2008, the above-identified application matured into U.S. Patent No. 7,412,110, with a revised patent term adjustment of 678 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 the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) 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 August 12, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until December 22, 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 October 12, 2008, the date two months from the date this patent issued, August 12, 2008. Rather, on December 22, 2008, 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, which 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]

---

[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

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.

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 that "Assignee may lose 512 days in the life of its patent through no fault of its own, seriously prejudicing Assignee in fully enforcing its statutory patent rights if this petition is not granted" in view of the situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)." Specifically, petitioner asserts that in view of Wyeth, the Office's method for calculation the PTA was in error and that "as a result of this change in the law, which occurred more than one months after the above entitled patent issued, petitioner could not reasonably have timely presented a request for reconsideration of the patent term adjustment."

Petitioner has not established that he was precluded from filing a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Instead, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered 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.

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.

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 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 Sec. 1.323 or 35 U.S.C. 255 and Sec. 1.324 are not substitute *fora* 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 Sec. 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 Sec. 1.705. 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 "APLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed December 22, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to 1,190 days.

On August 12, 2008, the above-identified application matured into U.S. Patent No. 7,412,110 with a revised patent term adjustment of 678 days. The instant request for reconsideration was filed more than two months after the issuance of the patent, on December 22, 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 the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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PORTLAND OR 97204

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OFFICE OF PETITIONS

In re Application of	:	
Settelmayer et al.	:	DECISION ON PETITION
Application No. 10/767,398	:	
Filed: January 28, 2004	:	
Attorney Docket No. YAK 382	:	

This is a decision on the "Petition to Correct Filing Receipt and Reply to Response to Request For Corrected Filing Receipt," filed August 17, 2005.

Applicant asserts that the USPTO incorrectly entered the domestic priority data for the above-identified application. Specifically, applicant states that on January 28, 2004, applicant filed the present application and, in the "Cross-Reference to Related Applications," claimed benefit of provisional application No. 60/443,487, filed January 28, 2003. Applicant avers that the filing receipt incorrectly lists the filing date of provisional application No. 60/443,487 as January 29, 2003, in the "Domestic Priority data as claimed by applicant." Applicant requests that the Office correct the domestic priority data to indicate that provisional application No. 60/443,487 was filed on January 28, 2003, instead of January 29, 2003.

A review of the record indicates that applicant referenced the wrong provisional application number in the "Cross Reference to Related Applications." Applicant incorrectly identified the prior-filed provisional application as No. 60/443,4<u>8</u>7,[1] instead of No. 60/443,4<u>3</u>7.

Accordingly, applicant caused the error in the domestic priority data for this application. Therefore, the petition is **dismissed.**

Although the benefit claim was filed within four months from the actual filing date of the present application, applicant referenced an incorrect provisional application number. Therefore, if applicant wishes to correct the provisional application number, applicant must file a petition

[1] Provisional application No. 60/443,487, entitled "EXPANDABLE BORE INJECTION NEEDLE," was filed on January 29, 2003. Thus, the incorrect domestic priority information listed on the filing receipt was not the result of any USPTO error.

under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional application No. 60/443,437, filed on January 28, 2003.

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 the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). 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) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SUGAR LAND TX 77496-7569

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JUN 07 2010

OFFICE OF PETITIONS

In re Application of :
Mosteret et al. :
Application No. 10/767,401 : DECISION ON PETITION
Filed: January 29, 2004 :
Attorney Docket No.: AUROR1190-1 :

This is a decision on the renewed petition filed under 37 CFR 1.137(b) in the above-identified application filed on February 5, 2010.

The petition is **dismissed.**

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

This application became abandoned for failure to timely submit a reply to the non-final Office action mailed on June 8, 2009. The Notice set an extendable three-month reply period of September 8, 2009. Accordingly, this application became abandoned on September 9, 2009. A Notice of Abandonment was mailed on December 29, 2010.

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

As to item (1), although petitioner has provided an amendment, a complete reply requires that petitioner also provide new corrected drawings in compliance with 37 CFR 1.121(d) as required in the June 8, 2009 Office action.

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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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SUITE 1600
CHICAGO, IL 60603-3406

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MAY 03 2010

OFFICE OF PETITIONS

In re Application of
Alexandru C. Doaga, et. al.
Application No. 10/767,407
Filed: January 29, 2004
Attorney Docket No. 6234/79714

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), or 10.40 filed December 30, 2009.

The request is **APPROVED**.

The request was signed by Timothy P. Maloney on behalf of himself and all attorneys/agents associated with Customer Number 22242. Therefore, Timothy P. Maloney and all the attorneys/agents associated with Customer Number 22242 have been withdrawn. Therefore, applicant is reminded that there are no attorneys/agents of record at this time.

The Office will no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82).

The request to change the correspondence cannot be accepted since it is not of the first named signing inventor or the intervening assignee that complied with the requirements of 37 CFR 3.73(b)[1]. Since 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 continue to be directed to the above listed address until otherwise properly notified by the applicant.

[1] 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).

This application is being referred to the Board of Patent Appeals and Interference for examination in due course.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: David M. Saslow, Esq./GPS Industries, LLC
1074 North Orange Avenue
Sarasota, FL 34236

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of
Bernard, et al.
Application No. 10/767,413
Filed: January 28, 2004
Attorney Docket No. 009584/0307533
For: SYSTEM AND METHOD FOR PERFORMANCE MONITORING IN A PASSIVE OPTICAL NETWORK

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "PETITION TO CORRECT FILING DATE," filed July 19, 2004 (certificate of mailing date July 13, 2004), requesting that the above-identified application be accorded a filing date of January 28, 2004 rather than the presently accorded filing date of January 29, 2004. The petition will be treated under 37 CFR 1.10(c).

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on January 28, 2004, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV382008236US showing no "date-in"**and** a USPS date stamp of JAN 28 2004. The same Express Mail label number is listed on the original transmittal letter found in the application file.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EV382008236US was deposited with the USPS on January 28, 2004.

Accordingly, the petition is granted. Pursuant to petitioners' authorization, deposit account no. 50-2213 be credited the $130.00 petition fee submitted with the instant petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **January 28, 2004**.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Williams, et al. :
Filed: January 19, 2004 : ON PETITION
Application No. 10/767,419 :
Atty. Dkt. No.: AAT007-2C US :

This decision is in response to the "PETITION" filed October 1, 2004 in response to the Notice To File Missing Parts Of Nonprovisional Application ("Notice") mailed August 18, 2004 to accord the above-identified application a filing date of January 19, 2004.

The application was filed January 19, 2004. The Notice indicated, *inter alia*, that the application had been accorded a filing date but Figure 16A appeared to have been omitted from the application papers as filed.

In response, the present petition was filed wherein petitioners argue that the application as deposited included Figure 16A. Petitioners have included as proof of mailing and proof of receipt of Figure 16A a return postcard date stamped by the Office on January 19, 2004. A copy of Figure 16A purportedly filed with the application on January 19, 2004 was also supplied.

The original Figure 16A submitted with the application papers has not been located. However, in view of the evidence presented, the petition to accord the application a filing date of January 19, 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. This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of January 19, 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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FORT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of
Frederick A. Perner, et al.
Application No. 10/767,428
Filed: January 29, 2004
Attorney Docket No. 200310068-1

ON PETITION

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

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 Brian R. Short 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 is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before December 20, 2006. A Notice of Abandonment was mailed on January 22, 2007. On January 26, 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

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NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Daniel J. Thompson, et al.	:	
Application No. 10/767,431	:	DECISION ON PETITION
Filed: January 30, 2004	:	TO WITHDRAW
Attorney Docket No. 25871	:	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 11, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Nath & Associates has been revoked by the assignee of the patent application on March 3, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: RITA D. VACCA, ESQ.
KV PHARMACEUTICAL COMPANY
2503 SOUTH HANLEY ROAD
ST LOUIS, MO 63144-2555

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MAIL

NOV 2 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Mori.
Application No. 10/767,433
Filed: January 30, 2004
For: STORAGE DEVICE CONTROL UNIT AND 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 August 2, 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 **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.

With respect to section (b) above, the petition filed August 2, 2004 fails to identify that an election will be made without traverse if the Office determines that all of the claims presented are not obviously directed to a single invention. However, in a telephone conversation with Applicant's attorney, Juan Carlos Marquez (Reg. No. 34,072) on November 18, 2004, an oral agreement was reached such that Applicant has indicated that an election will be made without traverse if a requirement for restriction is made on the part of the USPTO.

As Petitioner's submission filed August 2, 2004 and the oral agreement on November 18, 2004 meet the criterion 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 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.

11/18/04

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

HMJ: 11/18/04

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OFFICE OF PETITIONS

In re Application of
Kenji Mori
Application No. 10/767,433
Filed: January 30, 2004
Attorney Docket No. HITA.0507

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

This is a decision on the petition, filed April 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 April 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2188 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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REED SMITH LLP
3110 FAIRVIEW PARK DRIVE
SUITE 1400
FALLS CHURCH, VA 22042

MAIL

MAY 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of SATO	:	
Application No.: 10/767,442	:	DECISION ON PETITION
Filing Date: January 30, 2004	:	FOR ACCELERATED
For: FILE SHARING DEVICE AND INTER-	:	EXAMINATION UNDER
FILE SHARING DEVICE DATA	:	M.P.E.P. §708.02(VIII)
MIGRATION METHOD	:	

This is a decision on the petition filed January 4, 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 4, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

It is noted that although the cover letter of the petition is signed, the substantive part of the petition is unsigned. The Office has construed the signature on the cover letter as being applicable to the petition as a whole. However, if the signatory is not the person making the statements contained within the petition, applicant must notify the Office accordingly, and the application's special status will be rescinded.

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

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

REED SMITH LLP
Suite 1400
310 Fairview Park Drive
Falls Church VA 22042

In re Application of: Jiang, et al.
Application No. 10/767,444
Filed: January 30, 2004
For: DISK ARRAY DEVICE AND CONTROL METHOD OF DISK ARRAY DEVICE

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

This is a response to the petition filed 17 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 17 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 specifically point out how the language of claim 15 patentably distinguishes it from the references. The discussion purports to quote language from claim 15, however that language is from the specification rather than claim 15.

Petition to Make Special **DISMISSED**.

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

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

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

ds

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JUN 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church VA 22042

In re Application of: Jiang, et al.
Application No. 10/767,444
Filed: January 30, 2004
For: DISK ARRAY DEVICE AND CONTROL METHOD OF DISK ARRAY DEVICE

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 18 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 17 March 2005. The petition was dismissed for failure to provide a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicants' submission filed 18 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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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

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In re Application of	:	
George Fry	:	
Application No. 10/767,451	:	DECISION ON PETITION
Filed: January 29, 2004	:	
Attorney Docket No. 061602-0928	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 18, 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 December 19, 2007. A Notice of Abandonment was mailed April 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EITAN, PEARL, LATZER & COHEN ZEDEK LLP
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK NY 10020

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OFFICE OF PETITIONS

In re Application of	:
Anderson and Young	:
Application No. 10/767,459	: DECISION REFUSING STATUS
Filed: January 20, 2004	: UNDER 37 CFR 1.47(b)
Attorney Docket No. P-6464-US2	:
For: **SYSTEM AND METHOD FOR TREATING**	:
TISSUE	:

This is a decision on the petition under 37 CFR 1.47(b), filed November 9, 2004.

The petition under 37 CFR 1.47(b) 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(b).

The above-identified application was filed on April 17, 2002, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on June 15, 2004, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, payment of the filing and additional claim fees. The instant petition was filed on November 9, 2004, responsively, along with a request for an extension of time within the third month.

A grantable petition under 37 CFR 1.47(b) 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,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks items (1), (2), and (6) as set forth above.

As to item (1), petitioner has not established that inventor Young has either refused to execute the declaration or is unavailable to execute the declaration. It is noted that the statement of Guy Yonay's indicates that when inventor Anderson expressly refused to sign the declaration he was also speaking for inventor Young. Absent a representation from inventor Young that inventor Anderson is authorized to speak on his behalf and to represent him, inventor Anderson's express refusal to sign the declaration is only attributable to inventor Anderson. Accordingly, in order to satisfy item (1) above, petitioner will have to establish that inventor Young has either expressly or constructively refused to execute the declaration or is determined to be unavailable to do so after a diligent effort made by the petitioner.

As to item (2), the declaration filed with the instant petition cannot be accepted until the assignee demonstrates that it has the power to prosecute the application. Section 409.03(b) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that, "[w]here the oath or declaration is being signed on behalf of an assignee, see MPEP 324." Section 324 of the Manual of Patent Examining Procedure cites 37 CFR 3.71(c) which states that, "[a]n assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee." Petitioner should note that 37 CFR 3.73 requires that before an assignee can take action in a patent matter, the assignee must establish ownership of the patent property in accordance with 37 CFR 3.73(b)(1)(i) or (ii). No statement or certificate meeting the requirements of 37 CFR 3.73 was found with the petition. Petitioner must properly establish ownership of the patent property before the assignee will be granted authority under 37 CFR 1.47(b) to prosecute the application. Enclosed is a "Statement Under 37 CFR 3.73(b)" that petitioner may use to satisfy this requirement.

As to item (6), petitioner has not established that a filing date is necessary to preserve the rights of the party or prevent irreparable harm. This showing may be made by a statement to that effect and should accompany any renewed petition filed. *See MPEP* 409.03(g).

Deposit account 05-0649 will be charged $130.00 for the petition fee.

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 should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/96—"Statement Under 37 CFR 3.73(b)"

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

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MAR 28 2005

OFFICE OF PETITIONS

In re Application of
Anderson, Young, and Iger
Application No. 10/767,459
Filed: January 30, 2004
Attorney Docket No. P-6464-US2
For: SYSTEM AND METHOD FOR TREATING TISSUE

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a) filed March 7, 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 30, 2004, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on June 15, 2004, requiring an executed oath or declaration, a surcharge for the late filing of the oath or declaration, and payment of the filing and claim fees. A petition under 37 CFR 1.47 was filed on November 9, 2004, along with a request for an extension of time within the third month. The petition was dismissed by a decision mailed January 5, 2005.

It is noted that the petition filed on November 9, 2004, was treated as petition filed pursuant to 37 CFR 1.47(b). In fact, the declaration filed on November 9, 2005, included three inventor signature blocks as opposed to the two inventor signature blocks found on the declaration filed with the original application papers. Because inventor Iger executed the declaration, the petition under 37 CFR 1.47 filed November 9, 2004, should have been treated pursuant to 37 CFR 1.47(a). The instant renewed petition is properly treated pursuant to 37 CFR 1.47(a), accordingly.

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), further review of the declaration filed November 9, 2004, revealed that the mailing address for inventor Iger was not provided. It is noted that 37 CFR 1.62(c)(1) provides that:

> (c) unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must identify:
>
> (1) The mailing address, an the residence if an inventor lives at a location which is different from where the inventor customarily received mail, of each inventor . . .

No Application Data Sheet was found with the application papers, therefore; the declaration is required to provide a mailing address for all the inventors. The declaration is defective because no address was provided for inventor Iger.

Any renewed petition must be accompanied by a declaration identifying the mailing address of inventor Iger.

The Change of Correspondence Address form filed March 7, 2005, is noted and made of record.

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

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Anderson and Young	:	
Application No.: 10/767,459	:	
Filed: January 20, 2004	:	DECISION ACCORDING
Attorney Docket No: P-6464-US2	:	STATUS UNDER
For: SYSTEM AND METHOD FOR TREATING TISSUE	:	RULE 47(b)

This is in response to the renewed petition under 37 CFR 1.47(b), filed March 7, 2005.

The decision mailed March 28, 2005, dismissing the petition filed March 7, 2005, is **vacated.**

The renewed petition is **GRANTED**.

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

The above-identified application was filed on April 17, 2002, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on June 15, 2004, requiring an executed oath or declaration and a surcharge for the late filing of the same. A petition under 37 CFR 1.47(b) was filed on November 9, 2004, responsively, along with a request for an extension of time within the third month. The petition was dismissed by a decision mailed January 5, 2005. The instant renewed petition was then filed on March 7, 2005.

Petitioner has established the joint inventors have refused to join the prosecution of the application and that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to proceed with prosecution of the application without the joint inventors.

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

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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2100 PENNSYLVANIA AVENUE, N.W.
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WASHINGTON, DC 20037

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OFFICE OF PETITIONS

In re Application of

Hee-Chul Han

Application No. 10/767,468

Filed: January 30, 2004

Attorney Docket No. Q79411

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed August 31, 2007.

The petition is **granted**.

This application was held abandoned on March 23, 2007, after no reply was received to the non-final Office action mailed December 22, 2006. The notice set forth a shortened statutory period for reply of three months from its mailing date. Extensions under 37 CFR 1.136(a) were available. No response was received within the allowable period and the application became abandoned on March 23, 2007. A Notice of Abandonment was mailed July 10, 2007. The instant petition was filed on August 31, 2007. Petitioner maintains that the non-final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. It is also noted that the non-final Office action was mailed to an incorrect address and would not have been properly received by petitioner. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2100, GAU 2167 where the non-final Office action will be remailed and the period for reply reset.

Questions 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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RALEIGH, NC 27606

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MAR 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Andrew M. Proehl et al	:	
Application No. 10/767,473	:	ON PETITION
Filed: January 29, 2004	:	
Attorney Docket No. 50N3127.01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed June 16, 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 August 17, 2004.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: John R. Stuelpnagel	: DECISION ON REQUEST FOR
Patent Number	: 7612020	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/767,476	: 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 **590** 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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) AFD 649

First named inventor: *Benji Maruyama*

Application No.: *10/767,498* Art Unit: *1793*

Filed: *January 26, 2004* Examiner: *Edward W. Johnson*

Title: *METHOD OF PROCESSING FILAMENTARY NANOCARBON*

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450
FAX: (571) 273-8300

OCT 2 0 2008
PATENT & TRADEMARK OFFICE

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) 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 $ 1540.00 (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 *an Amendment and drawing* (identify type of reply):
   - ☐ has been filed previously on _____.
   - ☒ is enclosed herewith.

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

11/17/2008 CKHLOK 00000003 010465 10767498
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3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identify 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	16 Oct 08 Date
CHRISTOPHER J. MENKE Typed or printed name	53,316 Registration Number, if applicable
AFMCLO/JAZ, Bldg 11, Room D18 Address	(937) 904-5031 Telephone Number
2240 B Street, WPAFB OH 45433-7109 Address	

Enclosures:
- ☒ Fee Payment
- ☒ Reply
- ☐ Terminal disclaimer form
- ☒ Additional sheet(s) 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 Patent and Trademark Office at (571) 273-8300.

10-16-08 Date	Signature
	LYNNITA C. ROBERTSON Typed or printed name of person signing certificate

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

NOTE: The following showing of the cause of unintentional delay must be signed by any party who is presenting statements concerning the cause of delay.

16 Oct 08
Date

Signature

CHRISTOPHER J. MENKE
Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply)

This Office Action dated November 29, 2007 was assigned to a patent attorney who in January 2008 was tasked to conduct an organizational restructuring investigation by senior Air Force officers. The attorney and management overlooked the due date of the Office Action. When this office received the Notice of Abandonment, the application was assigned to a new attorney who initiated contact with the inventor to prepare a response to the Office Action. As such, the delay in filing a reply was unintentional.

(Please attach additional sheets if additional space is necessary)

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WORLDCOM, INC.
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET, N.W.
WASHINGTON DC 20036

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APR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Timothy Culver	:	
Application No. 10/767,500	:	ON PETITION
Filed: January 29, 2004	:	
Attorney Docket No.: **09710-1216**	:	

This is a decision on the petition filed March 16, 2009 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed April 8, 2008. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned July 9, 2008. Accordingly, a Notice of Abandonment was mailed November 28, 2008.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to petitioner. However, all

---

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

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

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

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

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

future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center 2416 for appropriate action on the amendment filed March 16, 2009.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
DITTHAVONG MORI & STEINER, P.C.
PHOUPHANOMKETH DITTHAVONG
918 PRINCE STREET
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 13 2005

In re Application of	:	
Eric J. Lawson et al.	:	DECISION ON PETITION
Serial No. 10/767,504	:	
Filed: January 28, 2004	:	
For: GAME OF CHANCE	:	

This is a decision on the petition to make special filed on October 12, 2004. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3713 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent there with this decision.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

James T. Robinson
Exclusivity-Law, Inc.
222 East Main Street
Norman, OK 73069-1303

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JAMES T ROBINSON
222 E MAIN STREET
NORMAN OK 73069

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OFFICE OF PETITIONS

In re Application of	:	
Lawson, et al.	:	
Application No. 10/767,504	:	ON PETITION
Filed: January 28, 2004	:	
Attorney Docket No. LAW101	:	

This is a decision on the petition filed on October 31, 2007, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed on May 3, 2006. This Office action set a shortened statutory period for reply of three months. No proper reply having been received, the application became abandoned on August 4, 2006. The Office mailed a Notice of Abandonment on November 13, 2006.

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

The matter is being forwarded to Group Art Unit 3714 for consideration of the RCE, filed October 31, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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DAVID K. LUCENTE; SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT. - COL2LGL
389 DISC DRIVE
LONGMONT, CO 80503

Mail Date: 04/21/2010

Applicant	: Robert W. Warren JR.	: DECISION ON REQUEST FOR
Patent Number	: 7613088	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/767,510	: 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 **1287** 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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SHEMWELL MAHAMEDI LLP
4880 STEVENS CREEK BOULEVARD
SUITE 201
SAN JOSE, CA 95129

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OCT 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Adiel M. Yoaz et al	:	
Application No. 10/767,512	:	DECISION ON PETITION
Filed: January 29, 2004	:	TO WITHDRAW
Attorney Docket No. ORCL.P103	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 13, 2005.

The petition is **NOT APPROVED**.

A review of the file record indicates that the power of attorney to Charles E. Shemwell, along with all of the other attorneys associated with customer no. 30554, has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. §1.36(b) is **moot**.

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

This application is being referred to Technology Center AU 2162.

Telephone inquiries concerning this decision should be directed to Karen Creasy at 571-272- 3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

HICKMAN PALERMO TRUONG &
BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1089

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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM NY 12110

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JUN 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Nerenberg, Arnold P.	:	
Application No. 10/767,527	:	ON PETITION
Filed: January 22, 2004	:	
Attorney Docket No. NERE-3817	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 5, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of the applicant's birth certificate. 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 3629 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

Mail Date: 04/20/2010

Applicant	: Steven M. Goetz	: DECISION ON REQUEST FOR
Patent Number	: 7617002	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/767,545	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **798** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Cindy S. Kaplan
P.O. BOX 2448
SARATOGA, CA 95070

Mail Date: 04/21/2010

Applicant	: Jean Philippe Vasseur	: DECISION ON REQUEST FOR
Patent Number	: 7599349	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/767,574	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1242** 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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Pepper Hamilton, LLP
50th Floor
One Mellon Center
500 Grant Street
Pittsburgh, PA 15219

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MAY 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Dong-Yuan Goang, et. al.	:	
Application No. 10/767,584	:	NOTICE
Filed: January 29, 2004	:	
Attorney Docket No. 114973.1411	:	

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

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

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

This file is being referred to the Office of Publications for further processing into a patent.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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ROYAL W. CRAIG
OBER & KALER
120 EAST BALTIMORE STREET
BALTIMORE MD 21202

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AUG 29 2008

In re Application of	:	
Charen et al.	:	
Application No. 10/767,592	:	ON PETITION
Filed: January 28, 2004	:	
Attorney Docket No. CHAREN-PA-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 29, 2008, to revive the above-identified application.

The petition is **DISMISSED** because it is unsigned. It appears that the petition was intended to be signed by Mr. Royal W. Craig, an attorney registered to practice before the U.S. Patent and Trademark Office.

37 CFR 1.33(b) states that:

"Amendments and other papers filed in the application must be signed by:

> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b),
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34,
> (3) An assignee as provided for under § 3.71(b) of this chapter, or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter".

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 petition lacks item (3), the petition is not signed and therefore, the petition is considered as not containing a proper statement of unintentional delay and cannot be accepted.

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 Alicia Kelley at (571) 272-6059.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OBER & KALER
120 EAST BALTIMORE STREET
BALTIMORE, MD 21202

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OFFICE OF PETITIONS

In re Application of :
Charen et al. :
Application No. 10/767,592 :
Filed: January 28, 2004 :
Attorney Docket No. CHAREN-PA-1 :

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 2, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 3, 2007. A Notice of Abandonment was mailed February 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114, (2) the petition fee of $770, and (3) an adequate statement of unintentional delay.

Petitioner should note that the petition fee of $770, submitted on September 9, 2008, was previously paid and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 2612 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Royal W. Craig
OBER & KALER
120 East Baltimore Street
Baltimore, MD 21202

Art Charen
616 Overbrook Rd.
Baltimore, MD 21212

(Courtesy Copy)

In re Art Charen et al.
Application No.: 10/767,592
Filed: January 28, 2004
Patent No.: 7,495,571
Issued: February 24, 2009

: **DECISION DISMISSING**
: **PETITION REQUESTING**
: **CORRECTED PATENT**

This is a decision on the June 16, 2009 petition titled "Petition to Correct a Patent Under 37 CFR 1.322(b)" ("the June 16, 2009 petition").

The June 16, 2009 petition is before the Office of Patent Legal Administration (OPLA) for consideration.

The June 16, 2009 petition is **dismissed**.

PERTINENT STATUTE AND REGULATION

35 U.S.C. 254 provides, in pertinent part:

> Whenever a mistake in a patent, incurred through the fault of the Patent and Trademark Office, is clearly disclosed by the records of the Office, the Director may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of patents. ... The Director may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction.

37 CFR 1.322(b) provides:

> If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Director may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee.

DECISION

The June 16, 2009 petition seeks correction of U.S. Patent No. 7,495,571 ("the '571 patent"), including correction to the Full Text for the '571 patent in the USPTO Patent Full-Text and Image Database maintained by the Office, because of the misspelled surname of the first named inventor.

Issuance of a corrected patent under 35 U.S.C. 254 and 37 CFR 1.322(b) is reserved for those instances in which the mistake to be corrected in the patent is a mistake on the part of the Office, ***and*** in which a certificate of correction is deemed inappropriate in form. A certificate of correction is typically appropriate in form where the errors are less than substantially the entire document. In particular, a certificate of correction is the normal mechanism for correcting a patent where, as here, the errors are substantially less than the entire document, i.e., the only identified error in the '571 patent is the surname of the first named inventor on the face of the '571 patent.

Therefore, the June 16, 2009 petition is **dismissed**; a Certificate of Correction issued instead on March 30, 2009, to address the typographical errors identified by petitioner in the March 9, 2009 Certificate of Correction Form PTO-1050.

Any inquiry concerning this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.

Brian E. Hanlon

Brian E. Hanlon
Director
Office of Patent Legal Administration
Office of the Associate Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Patent No. 7,402,448	:	
Issue Date: July 22, 2008	:	
Application No. 10/767,625	:	ON PETITION
Filed: January 28, 2004	:	
Attorney Docket No. SL1207	:	

This is a decision on the petition filed December 4, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Thomas E. Nemo appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Alicia Kelley at (571) 272-6059. 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.

/SDB/
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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/12/09

TO SPE OF : ART UNIT 2451

SUBJECT : Request for Certificate of Correction for Appl. No.: 10767626 Patent No.: 7412498 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: Please enter as amendment does not change the scope of the claimed invention.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

2/12/09 Z.M.

SPE Art Unit

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OFFICE OF PETITIONS

In re Application of :
McHale, et al. :
Application No. 10/767,675 :
Filed: January 29, 2004 :
Attorney Docket No. S63.2-10813US01 :

ON PETITION

This is a decision on the papers filed on March 17, 2005, 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 29, 2004, including Figure 13 described in the specification.

The application was submitted on January 29, 2004. However, Figure 13 described in the specification was omitted. It is Office practice to have the Office of Initial Patent Examination (OIPE) mail a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) that states the application has been accorded a filing date, and that Figure 13 described in the specification appears to have been omitted.

An applicant is given three options when a Figure is omitted:

Option I: Should applicant contend that the omitted item was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and $400.00 petition fee (37 CFR 1.17(f)) with evidence of such deposit must be filed within TWO MONTHS of the date of the Notice. The petition fee will be refunded if is determined that the item was received by the USPTO.

Option II: Should applicant desire to supply the omitted item and accept the date that such omitted item was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item (with a supplemental oath or declaration in compliance with 37 CFR 1 .63 and 1.64 referring to

such items), and a petition under 37 CFR 1.182 (with the $400.00 petition fee (37 CFR 1. 17(f)) requesting the later filing date must be filed within TWO MONTHS of the date of the Notice.

Option III: The failure to file a petition (and petition fee) under the above options (I) or (II) within TWO MONTHS of the date of the Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b). In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

Furthermore, In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted pages), and/or amendment of the specification to cancel all references to any omitted drawings), re-label the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any re-labeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

Accordingly, the petition is <u>dismissed</u> regarding the request for a filing date of January 29, 2004 including Figure 13. However, the petition is <u>granted</u> to the extent that the filing date shall be returned to the original filing date of January 29, 2004, but <u>without</u> Figure 13.

Figure 13 described in the specification, submitted February 25, 2004, will <u>not</u> be entered and applicant has TWO MONTHS from the mail date of this decision to select one of the above options in response to the omitted item. This period is not extendable under 37 CFR 1.136.

The application will be returned to OIPE for further processing with a filing date of January 29, 2004, including only the papers filed on that date. Figure 13, submitted February 25, 2004 ,will not be entered.

Telephone inquiries should be directed to the undersigned at (571)272-3228.

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

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SUITE 360
SANTA CLARA CA 95054

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OFFICE OF PETITIONS

In re Application of	:
Williams et al.	: DECISION ON PETITION
Application No. 10/767,680	:
Filed: 28 January, 2004	:
Attorney Docket No. AAT007-5C US	:

This is a decision on the petition filed on 1 July, 2004, which is treated as a petition requesting that the "Notice" mailed on 18 June, 2004, be withdrawn.

The petition is granted in part.

On 28 January, 2004, the application was filed. On 18 June, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application stating, *inter alia*, that Figures 16A, 17O, and 18H described in the specification appeared to have been omitted.

In response, on 1 July, 2004, the present petition and a copy of drawing sheets 60 and 219 containing Figures 16A and 18H, respectively were filed. Petitioner argues that the drawing sheets containing Figures 16A and 18H were filed with the other application papers on 28 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 01/28/04, the above-identified application number, and identifies the application by the inventor's name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, "Drawings (219 sheets)". Petitioner requests that the application, including the drawing sheets containing Figures 16A and 18H Pages 1-4 of the specification, be accorded a filing date of 4 August, 2003. Petitioners further concede that no Figure 17O was actually filed because of a concern of confusion with the number "170".

A review of the record reveals that no sheets of drawings containing Figures 16A, 17O, and 18H have been located among the application papers received on 28 January, 2004. However, the evidence is convincing that the application papers deposited on 28 January, 2004, included two sheets of drawings containing Figures 16A and 18H described in the specification, which were subsequently misplaced in the Office. Therefore, the application, including two sheets of drawings containing Figures 16A and 18H, is entitled to a filing date of 28 January, 2004.

With regard to Figure 17O, the Notice mailed on 18 June, 2004, was correct in stating that Figure 17O *appeared* to have been omitted. As such, the Notice will not be vacated with respect to Figure 17O.

In view of the above, the petition is granted to the extent indicated. The petition fee of $130.00 will be credited to counsel's deposit account, No. 50-2263.

The application will be processed with the copy of the sheets of drawings containing Figures 16A and 18H supplied on 1 July, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 28 January, 2004, using the application papers filed on that date, and the copy of two sheets of drawings containing Figures 16A and 18H described in the specification supplied with the present petition.

Telephone inquiries should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Richard K. Williams et al.	:	
Application No. 10/767,680	:	DECISION GRANTING PETITION
Filed: January 28, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AAT007-5C US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 31, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 10, 2005 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 2822 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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DUNCAN, OK 73536-0440

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OFFICE OF PETITIONS

In re Application of :
Gary W. Matula, et al. :
Application No. 10/767,690 :
Filed: January 29, 2004 :
Attorney Docket No. HES 2003-IP 012771U1 :

ON PETITION

This is a decision on the petition, filed July 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 6, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1755 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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NEW HAVEN, CT 06510

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OFFICE OF PETITIONS

In re Application of

Shimpei Morioka

Application No. 10/767,695

Filed: January 29, 2004

Attorney Docket No. 04-146

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed July 31, 2006.

The petition is **granted**.

This application was held abandoned May 1, 2006, after no reply was received to the Notice of Allowance and Issue Fee Due mailed January 30, 2006. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on May 1, 2006. A Notice of Abandonment was mailed July 19, 2006. The instant petition was filed on July 31, 2006. Petitioner maintains that the notice was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to the Office of Patent Publication for further processing that may include remailing the notice and resetting of the period for reply.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 04/22/2010

Applicant	: Shimpei Morioka	: DECISION ON REQUEST FOR
Patent Number	: 7604419	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/767,695	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1178** 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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800 N. LINDBERGH BLVD.
ATTENTION: GAIL P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS, MO 63167

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OFFICE OF PETITIONS

In re Application of Kovalic et al.	:	
Application No. 10/767,701	:	Decision Dismissing Petition
Filing Date: January 29, 2004	:	Under 37 CFR 1.78(a)(3)
Attorney Docket No. 16517.311	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 24, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the 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 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

The petition does not satisfy item (1) above. The amendment is not acceptable as drafted since it improperly incorporates by reference prior-filed applications.

The amendment adds the following statement to the beginning of the specification,

> This application is also a continuation in part of U.S. Application Serial No. 10/425,115, filed April 28, 2003, which is a continuation-in-part of U.S. Application Serial No. 09/985,678, filed November 5, 2001, which is a continuation of U.S. Application Serial No. 09/304,517, filed May 6, 1999.

Page 41 of the specification states, "All publications and patent applications cited herein are hereby incorporated by reference."

One cannot incorporate by reference applications or other matter after an application's filing date because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). *See* Dart Industries v. Banner, 636 F.2d 684, 207 U.S.P.Q. 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

The claims for priority may be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).[1] The Office notes submission of the priority claims via an Application Data Sheet would avoid the incorporation by reference raised by adding the claims to the specification.

Before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

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

Any questions concerning this matter may be directed to Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] 37 CFR 1.76(b)(5) states,

> Providing [domestic priority] information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and § 1.78(a)(2) or § 1.78(a)(5), and need not otherwise be made part of the specification.

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OFFICE OF PETITIONS

In re Application of Kovalic et al.	:	
Application No. 10/767,701	:	Decision Granting Petition
Filing Date: January 29, 2004	:	Under 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. 16517.311	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 25, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional 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(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications 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 the benefit claims and determine whether the application is entitled to the benefit of an earlier filing date.

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

The application is being forwarded to Technology Center Art Unit 1631 for consideration by the examiner of the claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications and the claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional applications. The examiner will also consider the Request under 37 CFR 1.48 filed May 25, 2007.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/767,701	01/29/2004	1631	900	38-21(53535)B	3	3

CONFIRMATION NO. 6459

CORRECTED FILING RECEIPT

OC000000025235740

27161
MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ATTENTION: GAIL P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS, MO 63167

Date Mailed: 08/07/2007

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

Applicant(s)

David K. Kovalic, University City, MO;
Yihua Zhou, Ballwin, MO;
Yongwei Cao, Chesterfield, MO;

Power of Attorney:

Joel Freed--25101
Gary Bond--29283
Thomas Kelley--29938
Lawrence Lavin--30768
Dennis Hoerner Jr--30914
Thomas McBride--32706
Grace Bonner--32963
Donna Scherer--34719
Felissa Cagan--35089
Thomas Omholt--37052

Domestic Priority data as claimed by applicant

This application is a CIP of 09/684,016 10/10/2000
and is a CIP of 09/850,147 05/08/2001 ABN
which claims benefit of 60/202,213 05/08/2000
and said 09/684,016 10/10/2000
is a CIP of 09/654,617 09/05/2000 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 04/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris

Convention, is US10/767,701

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

RECOMBINANT POLYPEPTIDES ASSOCIATED WITH PLANTS

Preliminary Class

536

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 6, 2006

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/767713 Patent No.: 7,065,115 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

MINSUN OH HARVEY
PRIMARY EXAMINER

2828
Art Unit

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GOWLING LAFLEUR HENDERSON LLP
SUITE 4900
COMMERCE COURT WEST
TORONTO ON M5L 1J3 CA CANADA

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of
Michael Shenfield, et al.
Application No. 10/767,728
Filed: January 30, 2004
Attorney Docket No. T8467911US

ON PETITION

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

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 Jonathan Pollack 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, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

It is noted that on November 3, 2008, Mr. Pollack filed a request to change the correspondence address to the address noted on the present petition. Since the record fails to show that Mr. Pollack was ever given a power of attorney to prosecute this application, the change of correspondence address could not be processed. If Mr. Pollack desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted.

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed October 5, 2007 which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 6, 2008. A Notice of Abandonment was mailed on August 19, 2008. On January 16, 2009 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

[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.

The application is being referred to Technology Center AU 2194 for appropriate action by the Examiner in the normal course of business on the reply received January 16, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JONATHAN POLLACK
GOWLING LAFLEUR HENDERSON LLP
1 FIRST CANADIAN PLACE
100 KING STREET WEST
TORONTO, ONTARIO, M5X 1G5 CANADA

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SEP 15 2006
OFFICE OF PETITIONS

Linda Horner
United States Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314

In re Application of	:	
Jay Proano et al.	:	
Application No. 10/767,729	:	DECISION ON PETITION
Filed: January 30, 2004	:	TO WITHDRAW
Attorney Docket No. 1875.5640000	:	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 not **APPROVED** as moot.

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).

Power of attorney was given to practitioners associated with Customer Number 28393. According to the Office records, Linda E. Horner is not associated with this Customer Number.

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.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Sterne, Kessler, Goldstein & Fox PLLC**
1100 New York, N.W.
Washington D.C. 20005

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LOWE, HAUPTMAN, HAM & BERNER, LLP (ITW)
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

Mail Date: 04/26/2010

Applicant	: Christian Bauer	: DECISION ON REQUEST FOR
Patent Number	: 7658350	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/767,745	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1140** 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.

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SANTA CLARA, CA 95054

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SEP 2 0 2004

OFFICE OF PETITIONS

In re Application of Williams et al. Application No. 10/767,751 Filed: January 28, 2004 Attorney Docket No. AAT007-4C US	DECISION ON PETITION

This is a decision on the PETITION filed August 17, 2004, requesting that the Office consider figures 16A as a part of the original application disclosure.

Application papers in the above-identified application were deposited on January 28, 2004. However, on August 5, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," advising applicant that the application papers had been accorded a filing date; however, figure 16A described in the specification appeared to have been omitted from the application.

In response, applicants timely filed the instant petition (and petition fee). Applicants assert that the application as filed included 219 sheets of drawings, including figure 16A on page 60. In support thereof, applicants submit a copy of their return postcard from the USPTO. Applicants also supply a copy of the drawing sheet containing figure 16A.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on January 28, 2004, and the items filed therewith were assigned Application No. 10/767,751; 2) it specifically identifies the items being filed, including "(d)Drawings(219 sheets)" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including the 219 sheets of drawings, were filed on January 28, 2004.

The sheets of drawings already considered received in the Office on January 28, 2004, were reviewed along with the drawing sheet containing figure 16A supplied on petition. These papers together constitute the item described on the postcard receipt as "219 sheets of drawings." It is concluded that petitioner has shown that figure 16A was among the items present in the

application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 50-2263, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. OIPE is to:

- process this application **with a filing date of January 28, 2004** using the application papers received in the Office and presently accorded that date, and figure 16A re-supplied on petition filed August 17, 2004; and
- indication in Office records that 219 sheets of drawings were present in the application on filing (including figure 16A).

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SANTA CLARA, CA 95054

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AUG 28 2006

OFFICE OF PETITIONS

In re Application of :
Richard K. Williams, et al. :
Application No. 10/767,751 :
Filed: January 28, 2004 :
Attorney Docket No.: AAT007-4C US :

ON PETITION

This is a decision on the petition, filed August 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 23, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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 2815 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Stanley P. Fisher
REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church, VA 22042

MAILED

AUG - 8 2006

TECHNOLOGY CENTER 2100

In re Application of: Yasuda, et al.
Application No. 10/767,778
Filed: 30 January 2004
For: FILE REPLICATION METHOD FOR DISTRIBUTED FILE SYSTEMS

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

This is a decision on the petition filed 7 November 2005, to make the above-identified application special, under 37 CFR § 102(d) and MPEP § 708.02(VIII): Accelerated Examination.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

In this case, the petition fails to properly discuss the claimed subject matter in accordance with the section (e) requirements supra.

The petition filed 7 November 2005 fails to discuss the **claimed limitations** with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). Specifically, in referencing the claim 4 inventive feature, the Petition does not actually (correctly) discuss the limitations set forth in the claim.

Claim 4 specifies a limitation of "judging whether or not replication should be performed by using the management table and the replication information".

The petition states, however, the distinguishing element of claim 4 is "judging whether or not a replicating operation should be performed **with execution of said file access request** by using said management table and said replication information". (emphasis added).

From the foregoing, it is clear that the petition's discussion language is not commensurate with the identified claim 4 limitation. Claim 4 has no recitation "with said **file access request"** as the petition avers. Therefore, in this case, the petition's language/limitation is narrower than the actual claimed recitation, and the petition misrepresents the claim 4 invention. Petitioner must specifically identify the distinguishing claim language in accordance with the section (e) discussion requirements in order to show "how the claimed subject matter is patentable over the references."

Further, Applicant's conclusion statement on page 4 of the petition i.e. "Therefore, since the cited references fail to teach or suggest the above described (1)-(3) features of the present invention as recited in independent claims 1, 4, 9 and 12 in combination with the ....." appears to require all three limitations in each independent claim (which is not the case).

Petition to Make Special **DISMISSED**.

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

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

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

GO

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JUL 26 2007

Technology Center 2100

In re Application of: YASUDA, et al.
Application No. 10/767,778
Filed: January 30, 2004
For: FILE REPLICATION METHOD FOR DISTRIBUTED FILE SYSTEMS

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 October 10, 2006 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on November 7, 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.

John Follansbee
WQAS
Technology Center 2100
571-272-3964

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Juan Carlos A. Marquez
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1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Yoshiko Yasuda	: DECISION ON REQUEST FOR
Patent Number	: 7590667	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/767,778	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1096** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK NY 10017

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MAY 3 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Learmon et al.	:	
Application No. 10/767,779	:	DECISION ON PETITION
Filed: 28 January, 2004	:	
Atty Docket No. 21465-510	:	

This is a decision in reference to the "PETITION TO CHANGE FILING DATE" filed on 8 March, 2006, which is treated as a petition requesting that the above-identified nonprovisional application, including drawing Figures 11C & 11D, be accorded a filing date of 28 January, 2004, instead of the presently accorded filing date of 22 September, 2004.

The petition is **GRANTED**.

On 28 January, 2004, the application was filed.

On 22 June, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of 28 January, 2004, but that, *inter alia*, Figures 11C & 11D described in the specification appeared to have been omitted from the application. The Notice also stated that replacement drawings in compliance with 37 CFR 1.84 and 1.121 are required.

In response, on 22 September, 2004, petitioners filed, *inter alia*, a one (1) month extension of time and replacement drawings, including Figures 11C & 11D The application was then accorded a filing date of 22 September, 2004.

The present petition was filed on 8 March, 2006. Petitioners assert that (1) Figures 11C and 11D were not missing from the application papers deposited on 28 January, 2004, and (b) Figures 11C and 11D were incorporated by references from a prior-filed provisional application. In support, petitioners have provided an itemized return receipt postcard, bearing an "Office-date" stamp of "012804" including the above-identified application

number, and itemizing the filing of 41 sheets of drawings containing Figures 1-42. Petitioners have also supplied, inter alia, a copy of one sheet of drawings containing Figures 11C and 11D.

A review of the record reveals that 40 sheets of drawings were received on 28 January, 2004. No one (1) sheet of drawings containing Figures 11C and 11D is located among the drawing figures received on that date. However, the evidence is convincing that the application papers deposited on 28 January, 2004, included one (1) sheet of drawings containing Figures 10C and 10D, which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figures 11C and 11D, is entitled to a filing date of 28 January, 2004.

The "Notice" mailed on 22 June, 2004, is vacated to the extend that it stated that Figures 10C and 10D appeared to have been omitted.

In view of the above, the petition is granted. The petition fee will be credited to counsel's deposit account, as the petition was necessitated by Office error.

The application will be processed with the copy of one (1) sheet of drawings containing Figures 11C and 11D as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 28 January, 2004, using the application papers filed on that date and the copy of one (1) sheet of drawings containing Figures 11C and 11D supplied with the present petition, and for an indication in Office records that 41 sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 571 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JAN 12 2007

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HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

In re Application of	:
Guido Galley et al	:
Serial No.: 10/767,784	: PETITION DECISION
Filed: January 29, 2004	:
Attorney Docket No.: 21453	:

This is in response to the petition under 37 CFR 1.144, filed October 26, 2006, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 and contained 24 claims, as filed. The examiner mailed to applicants on May 5, 2006, a restriction requirement, summarized as follows:

Groups I-VII – claim 1, drawn to compounds of Formula IA wherein variable C is one of 7 moieties;
Groups VIII-XIV – claim 1, drawn to compounds of Formula IB wherein variable C is one of 7 moieties;
Groups XV-XXI – claim 22, drawn to processes for preparing compounds of Formula IA wherein variable C is one of 7 moieties;
Groups XXII-XXVIII – claim 23, drawn to processes for preparing compounds of Formula IB wherein variable C is one of 7 moieties;
Groups XXIX-XXXV - claims 20-21, drawn to methods of using compounds of Formula IA wherein variable C is one of 7 moieties;
Groups XXXVI-XLII - claims 20-21, drawn to methods of using compounds of Formula IB wherein variable C is one of 7 moieties.

C is defined as one of phenyl, pyridinyl, furanyl or tetrahydrofuranyl, benzo[b]thiophenyl, tetrahydronaphthyl, indanyl, or 2,2,dimethyl-[1,3]dioxolanyl. (It is presumed that claims 2-19 are grouped with claim 1 for restriction purposes.)

The examiner set forth proper reasons for restriction between the Groups with respect to product, method of making and method of use, and advised of possible rejoinder. No specific reason for

division within the independent claims was set froth, however an election of species was required for whichever Group was elected.

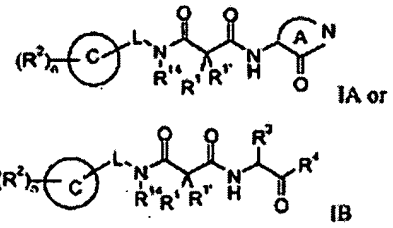
Applicants replied on June 5, 2006, electing with traverse Group I and a species with traverse. Applicants stated that they understood that if the elected species was patentable then the guidelines of M.P.E.P. 803.02 would be followed and also that rejoinder would occur with respect to the method of making and/or using claims.

The examiner mailed an *ex parte Quayle* Office action to applicants on August 25, 2005, acknowledging the election of Group I and responded to the traversal. The examiner maintained the requirement and made it Final based on the variations of moiety C resulting in different classifications and search and examination of all Groups would impose an undue burden. The examiner indicated the claims of Group I to be allowable and indicated rejoinder of Groups XV and XXIX and invited an amendment to make them commensurate in scope with the allowed product claim.

Applicants filed a reply to the Office action which has not yet been considered by the examiner and this petition on October 26, 2006, seeking withdrawal of the entire restriction requirement.

DISCUSSION

Applicants' claims are directed to compounds having the following structures:



IA or

IB

Applicants argue that the restriction requirement should be considered in terms of a linking claim with each Group identified by the examiner as a species of the generic claim and where one species is elected and found allowable, the linking claim must also be examined in its entirety.

A review of claim 1 shows that it is not a linking claim in the true sense of the word. M.P.E.P. sets forth the definition of a linking claim, as follows:

> 809 [R-5] Linking Claims
> There are a number of situations which arise in which an application has claims to two or more properly divisible inventions, so that a requirement to restrict the claims of the application to one would be proper, but presented in the same case are one or more claims (generally called "linking" claims) which, if allowable, would require rejoinder of the otherwise divisible inventions. See MPEP § 821.04 for information pertaining to rejoinder practice. Linking claims and the inventions they link together are usually either all directed to products or all directed to processes (i.e., a product claim linking properly divisible product inventions, or a process claim linking properly divisible process inventions). The most common types of linking claims which, if allowable, act to prevent restriction between inventions that can otherwise be shown to be divisible, are
>
> (A) genus claims linking species claims; and

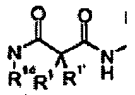
(B) subcombination claims linking plural combinations.

Where an application includes claims to distinct inventions as well as linking claims, restriction can nevertheless be required. The linking claims must be examined with, and thus are considered part of, the invention elected. When all claims directed to the elected invention are allowable, should any linking claim be allowable, the restriction requirement between the linked inventions must be withdrawn.

However, M.P.E.P. 803.02, which deals with Markush practice, is the more appropriate examiner guidance for applicants' claims wherein a Markush group is set forth:

> A Markush-type claim recites alternatives in a format such as "selected from the group consisting of A, B and C." See Ex parte Markush, 1925 C.D. 126 (Comm'r Pat. 1925). The members of the Markush group (A, B, and C in the example above) ordinarily must belong to a recognized physical or chemical class or to an art-recognized class. However, when the Markush group occurs in a claim reciting a process or a combination (not a single compound), it is sufficient if the members of the group are disclosed in the specification to possess at least one property in common which is mainly responsible for their function in the claimed relationship, and it is clear from their very nature or from the prior art that all of them possess this property. Inventions in metallurgy, refractories, ceramics, pharmacy, pharmacology and biology are most frequently claimed under the Markush formula but purely mechanical features or process steps may also be claimed by using the Markush style of claiming.

Applicants have set forth a Markush group of compounds based on Formulas IA and IB. It is noted that the only common structure in either formula is the substituted malonamide structure shown here:



Everything else is a variable. It is noted that the left side of the structure contains as a variable an –L-C group where L is a bond or short chain alkyl group and C is as defined above. The right side of the structure varies widely and includes many single and fused ring systems optionally with one or more heteroatoms. Each core malonamide structure combined with an –L-C moiety forms a proper separate and distinct Markush group. A proper Markush group is defined as: "Broadly, unity of invention exists where compounds included within a Markush group (1) share a common utility, and (2) share a substantial structural feature essential to that utility." Here each combination of the malonamide core with a different –L-C group forms a separate and distinct substantial structural feature in both Formula IA and IB which is presumed to be essential to the utility disclosed. (The property or activity does not appear to lie solely or primarily with the malonamide core.) Since there are seven separate structures formed a seven way restriction is appropriate. The examiner properly divided the various structures claimed according to the common malonamide core combined with variable –L-C to show the various differing significant structural elements. However, in view of the fact that both Formula IA and IB contain the same seven common cores the requirement for restriction should only have created 21 Groups, not 42.

DECISION

The petition is **GRANTED-IN-PART** in that Groups VIII-XIV are combined with Groups I-VII; Groups XXII-XXVIII are combined with Groups XV-XXI; and Groups XXXVI-XLII are combined with Groups XXIX-XXXV respectively. Applicants' election of Group I applies to

both Formula IA and IB structures. Rejoinder of the appropriate method of making and method of use Groups has been indicated by the examiner.

The application will be forwarded to the examiner for consideration of the amendment filed October 26, 2006, and such action as deemed appropriate.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

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BEDMINSTER NJ 07921

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OFFICE OF PETITIONS

In re Application of :
Werner, Carl Edward :
Application No. 10/767,785 : ON PETITION
Filed: January 29, 2004 :
Attorney Docket No. 2003-0210 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee, (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.

Normally, a two-month time for filing the Appeal Brief would run from the date of this decision. However, in view of an Appeal Brief being submitted on February 13, 2009, this matter is being referred to Technology Center AU 2455 for further processing.

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: WENDY W. KOBA
PO BOX 556
SPRINGTOWN, PA 18081

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Gail P. Wuellner
Patent Department, E2NA
Monsanto Company
800 N. Lindbergh Boulevard
St. Louis MO 63167

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AUG 0 2 2005

OFFICE OF PETITIONS

Applicant: Kovalic et al.
Appl. No.: 10/767,795
Filing Date: January 29, 2004
Title: NUCLEIC ACID MOLECULES AND OTHER MOLECULES ASSOCIATED WITH PLANTS AND USES THEREOF FOR PLANT IMPROVEMENT
Attorney Docket No.: 16517.312
Pub. No.: US 2004/0181830 A1
Pub. Date: September 16, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on November 16, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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APR 13 2005

Joseph L. Lemoine, Jr.
406 Audubon Boulevard, Suite A
Lafayette, LA 70503

In re Application of	:
Vernal J. Comeaux *et al*	: DECISION ON PETITION
Application No. 10/767,797	:
Filed: January 29, 2004	:
Attorney Docket No. 10303-62177	:

This is a decision on the petition to make special filed on January 29, 2004. The petition is based upon the practice described in MPEP § 708.02(IV) "Applicant's Age" and on the practice set forth in MPEP §§ 708.02(v) "Environmental Quality" and 708.02(VI) "Energy." Because the petition based upon age appears to be grantable, rendering the other grounds asserted moot, no petition fee is required.

The petition is granted.

The petition to make special based upon the practice in the above mentioned MPEP section is deemed to satisfy all of the requirements thereof. Specifically, the application contains a statement that co-inventor Vernal J. Comeaux is age 69.

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3743 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

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Robert I. Paterson	: DECISION ON REQUEST FOR
Patent Number	: 7568320	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/767,803	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1474** 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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501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON PA 19034

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OFFICE OF PETITIONS

In re Patent No. 7,488,822	:	DECISION ON REQUEST
Zhang et al.	:	FOR
Issue Date: February 10, 2009	:	RECONSIDERATION OF
Application No. 10/767,813	:	PATENT TERM ADJUSTMENT
Filed: January 29, 2004	:	and
Atty Docket No. AHPWA1DUSA	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 8, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred fourteen (1414) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred fourteen (1414) days is **GRANTED.**

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

The 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 four hundred fourteen (1414)** 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 : 7,488,822 B2

DATED : **February 10, 2009** **DRAFT**

INVENTOR(S) : Zhang 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 859 days

Delete the phrase "by 859 days" and insert – by 1414 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **DECEMBER 6, 2006**

TO SPE OF : ART UNIT **2821**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10767829** Patent No.: **7129892B2**

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

Doug K. Owen — **SPE**

2821 — **Art Unit**

Scan

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/18/09

TO SPE OF : ART UNIT 1700 Gregory Mills (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/767838 Patent No.: 7264694

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____
Changes are approved

/Glenn Caldarola/ /1797/

SPE **Art Unit**

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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OFFICE OF PETITIONS

In re Application of
James Proctor, Jr.
Application No. 10/767,843
Filed: January 29, 2004
Attorney Docket Number: 2479.2166-000
Title of Invention: METHOD FOR COMPENSATING FOR MULTI-PATH OF A CDMA REVERSE LINK UTILIZING AN ORTHOGONAL CHANNEL STRUCTURE

DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(b), filed August 16, 2004.

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

The above-identified application was filed on January 29, 2004, without a declaration executed by the sole inventor James Proctor, Jr.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to provide items (2), (5) and (6).

As to item (2), applicant failed to submit an executed oath or declaration with the petition. In addition to including the non-signing inventor's information, the granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. Where applicant is a corporation, an officer of the corporation normally is

required to sign the oath or declaration. The declaration must state the full name, residence, post office address, and citizenship of the non-signing inventor. The title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b).

As to item (5), Applicant has failed to provide any proof a proprietary interest is held in this application. Proprietary interest is usually established by establishing a) the invention has been assigned to applicant, or b) the inventor has agreed in writing to assign the invention to the applicant or c) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. See MPEP 409.03(f). The unsigned assignment document provided with the petition is not sufficient evidence of proprietary interest.

As to item (6), Applicant has not provided a showing that the granting of rule 47 status is necessary to preserve the rights of the party or prevent irreparable damage. See MPEP 409.03(h).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 220 20th Street S. Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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

COPY MAILED

MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of
James Proctor .
Application No.10/767,843
Filed: January 29, 2004
Attorney Docket Number: 2479.2166-000
Title: METHOD FOR COMPENSATING FOR MULTI-PATH OF A CDMA REVERSE LINK UTILIZING AN ORTHOGONAL CHANNEL STRUCTURE

DECISION

This is in response to the renewed petition under 37 CFR 1.47(b), filed February 14, 2005.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is not necessary and the petition is considered to be **Dismissed As Moot** . This application does not have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

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

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

Charlema R. Grant
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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Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Peter Williamson	: DECISION ON REQUEST FOR
Patent Number	: 7650568	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/767,847	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **584** 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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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

Mail Date: 04/22/2010

Applicant	: Kevin Stamp	: DECISION ON REQUEST FOR
Patent Number	: 7635356	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/767,860	: 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 **216** 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 : 11/06/2007

TO SPE OF : ART UNIT 3700 (3762)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,276,026

Attn: G.C. Manuel

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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.

Ok to enter second inventor as req. in COCIN? In eDan/Madras.

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

Thank You For Your Assistance

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

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

Comments:

ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

11/7/07

Angela D. Sykes

United States Patent and Trademark Office

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United States Patent and Trademark Office
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www.uspto.gov

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

4/20/09

In re Application of:
LANCASTER, PATRICK R. III et al
Serial No. 10/767,863
Filed: Jan. 30, 2004
Docket: 2906.0359-00
Title: METHOD AND APPARATUS FOR SECURING A LOAD TO A PALLET WITH A ROPED FILM WE

DECISION ON PETITION UNDER 37 CFR § 1.1144

This is a decision on the petition filed August 30, 2005 under 37 CFR 1.181 requesting withdrawal of the restriction requirement of February 1, 2005 or modification of the restriction requirement by reducing to six sub-groups. This petition is being considered pursuant to 37 CFR § 1.144 and 37 CFR § 1.181, and no fee is required. The delay in answering this petition is regretted.

The petition is dismissed as moot.

A review of the prosecution history shows that the non-elected claims 1-48 and 58-118 were canceled in the amendment filed on September 30, 2005. After a long prosecution, pursuant to a telephone interview between the examiner and the applicant's attorney on March 9, 2009, the examiner finally allowed the amended elected claims 50, 53-55, 119-128, 139 and 141-155 and cancelled all non-elected claims along with other rejected claims as indicated in the examiner's amendment mailed March 31, 2009. Therefore, the propriety of the initial restriction requirement of February 1, 2005 becomes moot.

The application is being forwarded to the Office of Publications awaiting payment of issue fee. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Karen M. Young, Director
Technology Center 3700

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ALEXANDRIA, VA 22313-1450
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APR -7 2005

In re Application of	:	
Duane Schroeder et al.	:	
Serial No. 10/767,883	:	DECISION ON PETITION
Filed: January 29, 2004	:	TO MAKE SPECIAL
For: MATERIAL COMPACTION	:	
APPARATUS	:	

Applicant's petition, filed March 22, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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

PETITION GRANTED.

E. R. Kazenske, Director
Technology Center 3700

Matthew T. Macari
Patterson, Thuente, Skaar & Christensen
4800 IDS Center, 80 South 8th Street
Minneapolis, MN 55402

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/21/2010

Applicant	: Lloyd Leon Burch	: DECISION ON REQUEST FOR
Patent Number	: 7647256	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/767,884	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1425** 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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DCM

JUL 2 2 2004

In re Application of	:	
Naishu Wang, et al.	:	
Serial Number: 10/767897	:	PETITION UNDER
Filed: January 28, 2004	:	M.P.E.P.708.02 X
For: INTERRUPTED VERTICAL FLOW TESTING 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 X of the MPEP and 37 CFR 1.17(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The request for Special Status considered under Section 708.02 X is granted because criteria under 37 CFR 1.102(d) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

CHARMASSON & BUCHACA & LEACH LLP
1545 HOTEL CIRCLE SOUTH
SUITE 150
SAN DIEGO CA 92108-3412

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SILICON VALLEY PATENT GROUP LLP
2350 MISSION COLLEGE BOULEVARD
SUITE 360
SANTA CLARA CA 95054

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AUG 0 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Williams et al.	:	
Application No. 10/767,905	:	DECISION GRANTING PETITION
Filed: January 28, 2004	:	
Attorney Docket No. AAT007-1C US	:	

This is a decision on the petition under 37 CFR 1.53, filed July 1, 2004, requesting that Figure 16a be accorded a filing date of January 28, 2004, as part of the original disclosure.

On January 28, 2004, applicants filed the above-identified application. On June 16, 2004, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of January 28, 2004, and requiring applicants to submit an executed oath or declaration and a surcharge for its late filing. Additionally, the Notice advised applicants that Figure 16a appeared to have been omitted.

In response, on July 1, 2004, applicants submitted a copy of Figure 16a, the present petition and petition fee. The petition is accompanied by a copy of applicants' postcard receipt acknowledging receipt of 219 sheets of drawings in the United States Patent and Trademark Office on January 28, 2004. In the present petition, applicants request that the application, including Figure 16a, be accorded a filing date of January 28, 2004.

Upon review of the record, Figure 16a, deposited on January 28, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on January 28, 2004, included Figure 16a, which was

subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figure 16a, was complete on filing and entitled to a filing date of January 28, 2004.

Accordingly, the petition is granted.

The requirement for omitted Figure 16a was sent in error and is hereby vacated.

The $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 50-2263, as requested by applicants.

The Office of Initial Patent Examination is directed to process the application with a filing date of January 28, 2004, using Figure 16a filed with the present petition. In addition, the record should indicate that 219 sheets of drawings were present on filing.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 050505

AUG 01 2005

WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

In re Application of:	:	
BIARD *et al.*	:	DECISION ON PETITION
Serial No.: 10/767,920	:	TO MAKE SPECIAL
Filed: January 29, 2004	:	
Attorney Docket No.: 15436.442.13	:	
For: **ELECTRON AFFINITY ENGINEERING FOR VCSELS**		

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed April 25, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from the applicant stating that James R. Biard is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Jose Dees at (571) 272-1569.

Jose Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11-27-07

Paper No.: ____

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction on Patent No.: 7183785 B2 / 10/767932

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.

Please Apply ATS/A/P

E. James

Thank You For Your Assistance

Certificates of Correction Branch 124
Tel. No. 703-308-9390 ext.

Emily Chan

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:

A new Oath with Sole inventorship is required.

H. Hyman

SPE

2829

Art Unit

3-6-09

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No.: 7,183,785
Inventor(s): Howard Roberts
Issued : February 27, 2007
Title : TEST SYSTEM AND METHODFOR REDUCED INDEX TIME

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.

Respecting the alleged error the inventors'names, the inventors are printed in accordance with the Declaration submitted at the time of filing the application. Therefore, no correction is in order here under Rules 1.322 or 323.

In view of the foregoing, your request is hereby denied.

A new Oath with Sole inventorship is required.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 124 or 125

The Law Firm of H. Dale Langley, Jr., P.C.
610 West Lynn
Austin, Texas 78703

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-4-09 Paper No.: _____

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/717932 Patent No.: 7183783

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

Reconsideration for Inventorship

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

Thank You For Your Assistance

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

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

Comments: _____

_____ **SPE** _____ **Art Unit**

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WARNER, NORCROSS & JUDD
IN RE: ALTICOR INC.
INTELLECTUAL PROPERTY GROUP
111 LYON STREET, N. W. STE 900
GRAND RAPIDS MI 49503-2489

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FEB 20 2008

OFFICE OF PETITIONS

In re Patent No. 7,175,862 :
Application No. 10/767,934 :
Filed: January 28, 2004 : ON PETITION
Issued: February 13, 2007 :
Attorney Docket No. 018716.076730-001 :

This is a decision on the petition, filed January 18, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

Petitioner states that the second assignee's name was inadvertently not included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee.

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a complete request for a certificate of correction as required by 3.81(b). The $100.00 fee was submitted. *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to "Cognis Australia Pty. Ltd." as the second assignee has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that "Cognis Australia Pty.

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

Ltd." was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above, **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth "Cognis Australia Pty. Ltd.," as the second assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the second assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BANNER & WITCOFF , LTD
ATTORNEYS FOR CLIENT NUMBER 007412
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/26/2010

Applicant	: James William Fahrny	: DECISION ON REQUEST FOR
Patent Number	: 7620179	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/767,980	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1554** 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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VIDAS, ARRETT & STEINKRAUS,
P.A.
SUITE 400, 6640 SHADY OAK
ROAD
EDEN PRAIRIE MN 55344

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SEP 14 2009

OFFICE OF PETITIONS

In re Patent No. 7,535,457	
Lincoln Eramo	
Issue Date: May 19, 2009	
Application No. 10/767,986	DECISION ON REQUEST FOR
Filed: January 29, 2004	RECONSIDERATION OF
Attorney Dkt. No. S63.2-11325-US01	PATENT TERM ADJUSTMENT
Title: Lubricious Composition	

This is in response to the "Application for Patent Term Adjustment" filed July 20, 2009. This petition is properly treated under 37 CFR 1.705(d). Patentee requests that the patent term adjustment be corrected to show an adjustment of 1099.

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

On May 19, 2009, the above-identified application matured into US Patent No. 7,534,495 with a patent term adjustment of 683 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentee requests recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 416 of the 511 days, does not overlap with the 766 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day. Thus, patentee requests

that the determination of patent term adjustment be increased from 416 days to 1099 days.

Patentee submits that the total period of adjustment for Office delay is the sum of the period of three-year delay (511 days) and the period of examination delay (766 days) to the extent that these periods of delay are not overlapping. As such, patentee asserts entitlement to a patent term adjustment of 1099 days (511 days *plus* 766 days less 95 days of overlap less 83 days of applicant delay).

The Office finds that as of the filing of the request for continued examination (RCE) on June 23, 2008, the application was pending three years and 511 days after its filing date. An entry of a period of adjustment of 766 days was entered for Office delay. Further, an undisputed reduction of 83 days for applicant's failure to engage in reasonable efforts to conclude prosecution was taken. At issue is whether patentees should accrue an additional 511 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 766 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 511 days overlap. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent

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

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

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the filing date January 29, 2004 until the filing of the RCE on June 23, 2008. Prior to the issuance of the patent, 766 days attributable to the Office's failure to issue a first Office action no later than fourteen months after the application filing date were entered.

The Office did not delay 766 days and then delay an additional 511 days. Accordingly, 766 days of patent term adjustment for Office delay (not 511 days and 766 days) was properly entered

because the entire period of delay of 511 days attributable to the delay in the issuance of the patent under 37 CFR 1.702(b) overlaps with the 766 days attributable to grounds specified in § 1.702(a)(1). Further, patentees failed to engage by an uncontested period of 83 days.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent was 683 days (766-83).

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.

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Kery Fries
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OBLON, SPIVAK, McCLELLAND
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Initials/Date Docketed: 11-8-02
Type of Resp(s):
Due Date(s):

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
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In re Application of
Vierira, et al.
Application No. 09/908,888
Filed: July 20, 2001
For: Fabrication Of A Wavelength Locker Within A Semiconductor Structure
Attorney Docket No. 211692US99

: RESPONSE TO PETITION
: UNDER 37 CFR 1.182
: SEEKING SPECIAL
: TREATMENT OF DISCLOSURE
: STATEMENTS, AND
: DECISION ON PETITION
: UNDER 37 CFR 1.183
: SEEKING WAIVER OF
: REQUIREMENTS UNDER
: 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is **GRANTED IN PART** to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

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different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

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 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 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 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 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies 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, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

(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 U.S. patents 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 containing a 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, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. 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. 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.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

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 U.S. patents in over 300 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 to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at:
http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

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 IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information 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), once submitted in the holding application must 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) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

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

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

Docket Number	Application #	Art Unit
	10125540	1631
	9984471	1641
	9624877	1725
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	9884981	1765
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	09662390	1765
	9905110	1772
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	9870830	1775
	9871958	1775
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	09813779	1775
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	10137383	2812
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Docket Number	Application #	Art Unit
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Docket Number	Application #	Art Unit
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Docket Number	Application #	Art Unit
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	9911420	3663
	09607722	3736

By FAX: (703) 872-9005

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

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: TC Assignment Appendix

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624 NINTH STREET, N.W.
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WASHINGTON DC 20001-5303

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OFFICE OF PETITIONS

In re Application of	:	
Junko Furuyama et al	:	
Application No. 10/768,008	:	DECISION GRANTING PETITION
Filed: February 2, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. FURUYAMA2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 30, 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 13, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Petitioner should be aware that the **second page** of the petition reference application no. **09/357,913**.

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

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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PO BOX 747
FALLS CHURCH VA 22040-0747

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MAY 03 2008

In re Application of	:
Akira Yoda et al	:
Application No. 10/768,026	: DECISION GRANTING PETITION
Filed: February 2, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3562-0137P	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 30, 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 April 29, 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 2618 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.*

Office of Petitions

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CIENA CORPORATION
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LINTHICUM, MD 21090

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OFFICE OF PETITIONS

In re Application of :
Shan Zhong, et al. :
Application No. 10/768,029 : ON PETITION
Filed: February 2, 2004 :
Attorney Docket No. 4450-0430P :

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

This application became abandoned for failure to timely pay the issue fees on or before December 6, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed September 6, 2006. On December 7, 2006, the present petition was filed. A Notice of Abandonment was subsequently mailed on April 6, 2006.

It is noted that the petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Robert N. Blackmon 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. If Mr. Blackmon desires to receive future correspondence regarding this application, then the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that the petitioner has supplied (1) the reply in the form of the requisite issue fee; (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 the Office of Publications to be processed into a patent.

[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 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

cc: ROBERT N. BLACKMON
673 S. WASHINGTON STREET
ALEXANDRIA, VA 22314

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Director's Office
Office of Patent Publication

TOM X. LI
LEGAL DEPARTMENT
AGILENT TECHNOLOGIES, INC.
3500 DEER CREEK ROAD, MS 26U-25
PALO ALTO, CA 94304-1317

In re Application of	:	
ZAVITSANOS, A. PAUL, et al.	:	
Application No. 10/768,044	:	**DECISION ON PETITION**
Filed: February 2, 2004	:	
Attorney Docket No. 10030226-1	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment (37 CFR 1.181), received in the United States Patent and Trademark Office (USPTO) on July 28, 2005.

The petition is **GRANTED.**

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee and publication as required in the Notice of Allowance and Fee(s) Due, mailed January 28, 2005, which set a three (3) month statutory period for reply. The Notice of Abandonment was mailed on July 8, 2005.

Petitioner has submitted a copy of the Issue Fee Transmittal Form PTOL-85B (Transmittal), and a copy of a returned postcard, which acknowledges receipt of the Transmittal by the USPTO, on February 7, 2005, as evidenced by the Office Date stamp thereon.

MPEP 503 states the following:

> A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO.

In view of the above, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn.

The issue fee in the amount of $1,400 and $300 for the publication fee were charged to Deposit Account No. 50-1078.

To prevent further abandonment of any future patent applications, when paying the issue fee and publication fee, if required, Petitioner is advised to include in the Deposit Account Number on the Fee(s) Transmittal form. See 37 CFR 1.311

The application will be forwarded to the Publishing Division to be processed into a patent.

Thomas E Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

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CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Franck Le	: DECISION ON REQUEST FOR
Patent Number	: 7620808	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/768,075	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1175** 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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3110 FAIRVIEW PARK DRIVE
FALLS CHURCH VA 22042

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OFFICE OF PETITIONS

In re Application of	:	
Tomohiro Okada et al	:	
Application No. 10/768,104	:	ON PETITION
Filed: February 2, 2004	:	
Attorney Docket No. HITA.0499	:	

This is a decision on the petition, filed October 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 12, 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 2653 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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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church VA 22042

In re Application of: FUKUMORI
Application No. 10/768,105
Filed: February 02, 2004
For: STORAGE DEVICE

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

This is a response to the petition filed 12 April 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

ds

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090716

DATE : July 16, 2009

TO SPE OF : ART UNIT 2115

SUBJECT : Request for Certificate of Correction on Patent No.: 7475261

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:

Certificate of Correction cannot be used to correct a Terminal Disclaimer after prosecution has closed. Correction to a TD requires a new TD to be filed, which can only be done during prosecution.

/Thomas Lee/
Supervisory Patent Examiner, Art Unit 2115

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. BOX 1450
Alexandria, VA 22313-1450

Patent No. : 7,475,261
Serial No. : 10/768,136
Applicant : Y. Totsuka, et. al.
Issued : January 6, 2009

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.323.

Respecting the alleged applicant's mistake on the Terminal Disclaimer sheet, Certificate of Correction cannot be used to correct a Terminal Disclaimer after prosecution has closed. Correction to a TD requires a new TD to be filed, which can only be done during prosecution.

In view of the foregoing, your request is hereby denied.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Certificate of Correction Branch
Decisions and Certificates of Correction
Eva James
For Mary Diggs
(703) 756-1583 or 1580

John R. Mattingly
Suite 370
1800 Diagonal Road
Alexandria VA 22314

ej

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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MAIL

JUL 29 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Inoue et al.
Application No. 10/768,146
Filed: February 2, 2004
For: DISK ARRAY DEVICE AND MAINTENANCE METHOD FOR DISK ARRAY DEVICE

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

This is a response to the petition filed July 1, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

AWK

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church VA 22042

MAILED

DEC 30 2005

TECHNOLOGY CENTER 2100

In re Application of: MITSUOKA, et al.
Application No. 10/768,147
Filed: February 2, 2004
For: ACCESS CONTROL APPARATUS AND ACCESS CONTROL METHOD

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

This is a response to the petition filed 01 April 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **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.

Applicant's submission meets all the criteria set out above. The statement repeated in the discussion of each reference on pages 3-7 is sufficient in distinguishing how the claimed subject matter is patentable over the references. 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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REED SMITH LLP
3110 FAIRVIEW PARK DRIVE
SUITE 1400
FALLS CHURCH, VA 22042

MAILED
MAY 12 2005
Technology Center 2100

In re Application of OHNO et al	:	
Application No.: 10/768,173	:	DECISION ON PETITION
Filing Date: February 2, 2004	:	FOR ACCELERATED
For: APPARATUS AND STORAGE SYSTEM	:	EXAMINATION UNDER
FOR CONTROLLING ACQUISITION	:	M.P.E.P. §708.02(VIII)
OF SNAPSHOT	:	

This is a decision on the petition filed December 20, 2004 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 December 20, 2004 meets the criteria set forth above, the petition to make special is **GRANTED**.

It is noted that although the cover letter of the petition is signed, the substantive part of the petition is unsigned. The Office has construed the signature on the cover letter as being applicable to the petition as a whole. However, if the signatory is not the person making the statements contained within the petition, applicant must notify the Office accordingly, and the application's special status will be rescinded.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/19/08

Paper No.: ____

TO SPE OF : ART UNIT 1764

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/768176 Patent No: 7223894 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
Fax ~~EMAIL~~ 571-270-9892

Thank You For Your Assistance

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

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

Comments: Approved

SPE — 1797 Art Unit

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

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

JAN 27 2005

In re Application of	:	
Michael Schneider	:	
Serial No. 10/768,186	:	DECISION ON PETITION
Filed: February 2, 2004	:	TO WITHDRAW AS ATTORNEY
For: PING-PONG PADDLE	:	

By papers filed on July 23, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

Timothy J. Klima, Esq.
Harbin King & Klima
500 Ninth Street, SE
Washington, DC 20003

E.R. Kazenske, Director
Technology Center 3700

Davidson Berquist
Klima & Jackson, LLP
4501 North Fairfax Dr., Suite 920
Arlington, VA 22203

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

Paper No.

WESTERMAN, HATTIRO,
DANIELS & ADRIAN, LLP
SUITE 700
1250 CONNECTICUT AVE, N.W.
WASHINGTON, DC 20036

COPY MAILED
AUG 1 8 2004
OFFICE OF PETITIONS

In re Application of: :
ISHIDAO et al. :
Application No. 10/768,188 : DECISION DISMISSING
Filed: February 2, 2004 : PETITION UNDER
Title of Invention: : 37 CFR 1.47(a)
SEMICONDUCTOR MEMORY DEVICE AND :
MANUFACTURING METHOD THEREOF :

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

The petition is **dismissed**.

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

The above-identified application was filed on February 2, 2004, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on April 30, 2004, requiring *inter alia*, a properly signed oath or declaration.

In response to the Notice, Applicant files the instant wherein Applicant avers that the nonsigning inventor refuses to join in the above-identified application or cannot be found or reached after diligent effort. This assertion is supported by a statement of pertinent facts wherein Applicant avers that the Oath and Declaration and Power of Attorney and Assignment were

sent to the nonsigning inventor, who has yet to reply and can not be reached by telephone.

Applicable Law

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

As to item (1), where it is alleged that an applicant refuses to join an application, the applicant must establish that the nonsigning inventor was presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

MPEP 409.03(d).

Here, Applicant has sent the Declaration and Power of Attorney and Assignment, but has failed to present the inventor with the application[1]. A copy of the application papers should be sent to the last known address of the nonsigning inventor.

---

[1] Applicant is advised that, where an inventor is unavailable (cannot be reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. (Emphasis supplied). See, MPEP §

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

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

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. See, MPEP § 409.03(d).

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.

WESTERMAN, HATTIRO,
DANIELS & ADRIAN, LLP
SUITE 700
1250 CONNECTICUT AVE, N.W.
WASHINGTON, DC 20036

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JAN 07 2005

OFFICE OF PETITIONS

In re Application of:	:	
ISHIDAO et al.	:	
Application No. 10/768,188	:	DECISION GRANTING
Filed: February 2, 2004	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
SEMICONDUCTOR MEMORY DEVICE AND	:	
MANUFACTURING METHOD THEREOF	:	

This is in response to a Petition Under 37 CFR 1.47, filed October 1, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Masaki Ishidao, cannot be reached to join in the application.

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

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

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Masaki Ishidao
2-506
Azuma-cho 1-chome
Atsugi-shi
Kanagawa 243-006
JAPAN

COPY MAILED

JAN 07 2005

LETTER OFFICE OF PETITIONS

In re Application of: :
ISHIDAO et al. :
Application No. 10/768,188 :
Filed: February 2, 2004 :
Title of Invention: :
SEMICONDUCTOR MEMORY DEVICE AND :
MANUFACTURING METHOD THEREOF :

Dear Mr. Ishidao:

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: WESTERMAN, HATTIRO,
DANIELS & ADRIAN, LLP
SUITE 700
1250 CONNECTICUT AVE, N.W.
WASHINGTON, DC 20036

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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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

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FEB 16 2010

In re Application of	:	
Katsuhiko YANAGISAWA et al.	:	
Application No. 10/768,193	:	NOTICE
Patent No. 7,339,035	:	
Filed: February 02, 2004	:	
Attorney Docket No. **80160(302730)**		

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 Tredelle Jackson at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Christopher C. Dunham
c/o Cooper & Dunham LLP
1185 Ave. of the Americas
New York, NY 10036

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JUL 06 2006

OFFICE OF PETITIONS

In re Application of Epp et al. :
Application No. 10/768,210 : Decision on Petition
Filing Date: January 29, 2004 :
Attorney Docket No. 71918 CCD :

This is a decision on the petition under 37 CFR 1.181, filed May 8, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a non-final Office action on October 28, 2005.

A reply was not timely filed in response to the Office action.

Petitioner contends, and has established, the Office action was never received.

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

Technology Center Art Unit 3725 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new non-final Office action. The time period for responding to the new Office action will be set to run from the mailing date of the new Office action.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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DUANE MORRIS, LLP
IP DEPARTMENT
ONE LIBERTY PLACE
PHILADELPHIA PA 19103-7396

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FEB 08 2005

OFFICE OF PETITIONS

In re Application of
Bang-Ching Ho et al.
Application No. 10/768,217
Filed: January 30, 2004
Attorney Docket No. N1085-00255

ON PETITION

This is a decision on the petition under 37 CFR 1.53 filed October 19, 2004 requesting that the above-identified application be accorded a filing date of January 30, 2004.

Petitioner alleges that the application was deposited in Express Mail service on January 30, 2004 and that as of the filing of the petition, the application had not been accorded a filing date.

A review of the Office PALM records reveals that this application was previously accorded a filing date of January 30, 2004 and that a Notice to File Missing Parts was mailed October 18, 2004, the day before the instant petition was filed, a response to which has been noted as filed December 16, 2004. Therefore, the present petition is unnecessary and will be **DISMISSED** as involving moot issues.

Accordingly, the petition fee is unnecessary and will be credited back to deposit account no. 04-1679.

The application is being referred to Technology Center 2812 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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NOV 22 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Anderson & Morishita, L.L.C.
Suite 102
2725 S. Jones Blvd.
Las Vegas, NV 89146

In re application of
Michael J. Mikich, et al.
Application No. 10/768,225
Filed: January 30, 2004
For: SUSPENDED STORAGE SHELF

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed July 26, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed July 26, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/rwg: 11/15/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

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OCT 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Gottgurcht, et al.	:	
Application No. 10/768,232	:	DECISION ON PETITION
Filed: January 30, 2004	:	TO WITHDRAW
Attorney Docket No. 4346P001DC2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 9, 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 at the request of MallTV", does not meet any the conditions set forth in 37 CFR 10.40.

It is noted that the change of address filed on February 9, 2006 is improper. All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: SCOTT W. DOYLE
STEPTOE & JOHNSON, LLP
1330 CONNECTICUT AVENUE, NW
WASHINGTON, DC 20036

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Steven M. duBois
Potomac Patent Group, PLLC
PO Box 855
McLean VA 22101-0855

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Hunleth et al.	:	DECISION ON PETITION
Application No. 10/768,234	:	
Filed: January 30, 2004	:	
Attorney Docket No. 0320-002	:	

This is a decision on the petition under 37 CFR 1.53(e) filed July 28, 2004, requesting that the above-identified application be accorded a filing date of January 30, 2004.

The application was deposited on January 30, 2004, without claims. On June 15, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," requiring a complete specification (including at least one claim) as prescribed by 35 U.S.C. 112, and stating that the filing date would be the date of receipt of the omitted item. Additionally, the Notice indicated that an oath/declaration and abstract were missing.

On July 28, 2004, applicant submitted the present petition, an executed declaration, a certified copy of U.S. Provisional Patent Application No. 60/495,998, and the requisite fees. Applicant contends that the application as filed specifically incorporated by reference Application No. 60/495,998, filed August 18, 2003.

A search of the official file reveals that on January 30, 2004, a specification was filed, which states, in relevant part: "This application is also related to, and claims priority from, U.S. Provisional Patent Application Serial No. 60/495,998, filed August 18, 2003, entitled 'A Control Framework with a Zoomable Graphical User Interface for Organizing, Selecting and Launching Media Items', the disclosure of which is incorporated by reference."

Section 201.06(c) of the Manual for Patent Examining Procedure permits the entering of a portion of the prior application into a

continuation or divisional application when the portion of the prior application was inadvertently omitted from the continuation or divisional application. Based on applicant's representation that the claims supplied with the present petition constitute a copy of the prior application papers, and the incorporation by reference statement appearing in the specification deposited on January 30, 2004, it is appropriate, on petition, to accord the application the requested filing date of January 30, 2004, with 22 pages of claims.

Accordingly, the petition is **granted.**

The $130.00 petition fee set forth in 37 CFR 1.17(h) will not be refunded because the petition was required to accord the application the requested filing date.

Applicant must submit an abstract as required by the Notice within TWO MONTHS of the date of this decision.

The Office of Initial Patent Examination is directed to process the application with a filing date of **January 30, 2004**, using the application papers filed on that date and the copy of 22 pages of claims submitted on July 28, 2004.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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POTOMAC PATENT GROUP PLLC
P. O. BOX 270
FREDERICKSBURG VA 22404

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FEB 17 2010

In re Application of	:	
HUNLETH et al.	:	
Application No. 10/768,234	:	NOTICE
Filed: 01/30/2004	:	
Attorney Docket No. 0320-002	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 4, 2009.

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) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE: E. Urban

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/3/07

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/768,247 Patent No.: 7085539

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: _____

MATTHEW ANDERSON
SUPERVISORY PATENT EXAMINER

SPE

2618
Art Unit

SPE: E. Urban

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/3/07

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/768,247 Patent No.: 7085539

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: _____

MATTHEW ANDERSON
SUPERVISORY PATENT EXAMINER

SPE

2618
Art Unit

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Carmen Patti Group , LLC
ONE NORTH LASALLE STREET
44TH FLOOR
CHICAGO IL 60602

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AUG 17 2009

OFFICE OF PETITIONS

In re Application of :
Buskens et al :
Application No.10/768,308 : DECISION ON PETITION
Filed: January 30, 2004 :
Attorney Docket No. LUC-450/Buskens :
6-1-1-1-2

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 20, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is December 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 a Notice of Appeal and fee; (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

The two-month period for filing an appeal brief under 37 CFR 41.37(a)(1), accompanied by the fee required by 37 CFR 41.20(b)(2), runs from the date of this decision.

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

This application is being referred to Technology Center AU 2191.

Charlema Grant
Petitions Attorney
Office of Petitions

United States
Patent And
Trademark Office

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

PETITION DECISION

04/23/04

Fay, Sharpe, Fagan, Minnich & Mckee, LLP
1100 Superior Avenue
Seventh Floor
Cleveland, OH 44114-2518

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/768319 received on 04/14/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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JUN 14 2006

OFFICE OF PETITIONS

Applicant: Vargas et al.
Appl. No.: 10/768,327
Filing Date: January 30, 2004
Title: ORGANIC ELEMENT FOR ELECTROLUMINESCENT DEVICES
Attorney Docket No.: 86131AEK
Pub. No.: US 2005/0170204 A1
Pub. Date: August 4, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 30, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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SEP 2 2 2005
OFFICE OF PETITIONS

In re Application of	:	
Pendharkar et al.	:	
Application No. 10/768,335	:	ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. ETH-5084USNP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 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 restriction requirement mailed November 24, 2004, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 25, 2004. A Notice of Abandonment was mailed June 2, 2005.

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

The $1500.00 petition fee will be deducted from petitioner's deposit account as previously authorized.

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) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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PIONEER HI-BRED INTERNATIONAL INC.
7100 N.W. 62ND AVENUE
P.O. BOX 1000
JOHNSTON IA 50131

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MAR 18 2005

OFFICE OF PETITIONS

Applicant: Hood et al.
Appl. No.: 10/768,339
Filing Date: January 30, 2004
Title: SOYBEAN VARIETY XB57M04
Attorney Docket No.: 1834
Pub. No.: US 2004/0172691 A1
Pub. Date: September 2, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on October 25, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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

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OCT 0 2 2006
OFFICE OF PETITIONS

Applicant: Hicks
Appl. No.: 10/768,342
Filing Date: January 30, 2004
U.S. Patent No.: 6,977,327
Issue Date: December 20, 2005
Title: SOYBEAN VARIETY XB55K04
Attorney Docket No.: 1833
Pub. No.: US 2004/0172692 A1
Pub. Date: September 2, 2004

This is in response to the "Request for Corrected or Revised Patent Application Publication under 37 CFR 1.221(b)," which was received on October 25, 2004, for the above-identified application.

The request is DISMISSED as moot.

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]

Since the application has already issued as U.S. Patent No. 6,977,327 on December 20, 2005, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061030

DATE : October 30, 2006

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 6,977,327

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: Anne Marie Grunberg **Art Unit** 1638

PTO/SB/92 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

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APR 20 2006
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Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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

on April 17, 2006
Date

Signature

Steven Callistein
Typed or printed name of person signing Certificate

43,525
Registration Number, if applicable

515-254-2823
Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

1. Request for Certificate of Correction of Applicant Mistake - 2 copies
2. Certificate of Correction - 2 copies

This collection of information is required by 37 CFR 1.8. 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 1.8 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.

APR 24 2006

Kruse, David

From: Green, Angela
Sent: Thursday, October 26, 2006 9:25 PM
To: Kruse, David
Subject: IFW 10/768342 6977327

Please respond to Req. for correction ASAP.

Once decision has been made on PTOL-306 and forwarded to scanning, a return message in Edan/Madras with comment stating "Response has been forwarded for scanning" is very much welcomed and appreciated.

PUBS CofC ok
Angela Green
ST9A22 Loca 7580
703.308.9380 ext. 123

Thank you for your attention to this matter.

10/768,342

The population of plants produced at each and any cycle of breeding is also an embodiment of the invention, and on average each such population would predictably consist of plants containing approximately 50% of its genes from variety XB55K04 in the first breeding cycle, 25% of its genes from variety XB55K04 in the second breeding cycle, 12.5% of its genes from variety XB55K04 in the third breeding cycle, 6.25% in the fourth breeding cycle, and so on. However, in each case the use of variety XB55K04 provides a benefit, because linkage groups of XB55K04 are retained in the progeny varieties. Specifically, an embodiment of the invention is a process for making a population of XB55K04 progeny plants comprising obtaining or producing a first generation progeny seed comprising the plant of XB55K04 as a parent, growing said first generation progeny seed to produce first generation plants, obtaining self or sib pollinated seed from said first generation plants, and growing the self or sib pollinated seed to obtain a population of XB55K04 progeny plants.

The population of XB55K04 progeny soybean plants produced by this method will retain the expected genetic contribution of XB55K04 described above. A variety selected from the population of XB55K04 progeny plants produced by this method is an embodiment, and such variety may be further characterized by its molecular marker identity or similarity to XB55K04.

In this manner, the invention encompasses a process for making a substantially homozygous XB55K04 progeny plant comprising the steps of obtaining or producing a first generation progeny seed wherein a parent of said first generation progeny seed is a plant of variety XB55K04, growing said first generation progeny seed to produce a first generation plant and obtaining self or sib pollinated seed from said first generation soybean plant, and producing successive filial generations to obtain a substantially homozygous XB55K04 progeny plant. Also an embodiment of this invention is the substantially homozygous XB55K04 progeny plant produced by this method.

Applicant(s) have made a deposit of at least 2500 seeds of Soybean Varity XB55K04 with the American Type Culture Collection (ATCC), Manassas, Va. 20110 USA, ATCC Deposit No. PTA-6437. The seeds deposited with the ATCC on Dec. 14, 2004 were taken from the deposit maintained by Pioneer Hi-Bred International, Inc., 7100 NW 62nd Avenue, Johnston, Iowa 50131-1000 since prior to the filling date of this application. Acess to this deposit will be avalible during the pendency of the application to the Commissioner of Patents and Trademarks and persons determined by the Commissioner to be entitled thereto upon request. Upon allowance of any claims in the application, the Applicant(s) will make the deposit avalible to the public pursuant to 37 CFR 1.808. This deposit of Soybean Varity XB55K04 will be maintained in the ATCC depository, which is a public depository, for a period of 30 years, or 5 years after the most recent request, or for the enforceable life of the patent, whichever is longer, and will be replaced if it becomes nonviable during that period. Additionally, Applicant(s) have or will satisfy all the requirements of 37 C.F.R. §§1.801–1.809, including providing an indication of the viability of the sample upon deposit. Applicant(s) have no authority to waive any restrictions imposed by law on the transfer of biological material or its transportation in commerce. Applicant(s) do not waive any infringement of their rights granted under this patent or under the Plant Variety Protection Act (7 USC 2321 et seq.).

All publications, patents and patent applications mentioned in the specification are indicative of the level of those skilled in the art to which this invention pertains. All such publications, patents and patent applications are incorporated by reference herein for the purpose cited to the same extent as if each was specifically and individually indicated to be incorporated by reference herein.

The foregoing invention has been described in detail by way of illustration and example for purpose of clarity and understanding. As is readily apparent to one skilled in the art, the foregoing are only some of the methods and compositions that illustrate the embodiments of the foregoing invention. It will be apparent to those of ordinary skill in the art that variations, changes, modifications and alterations may be applied to the compositions and/or methods described herein without departing from the true spirt, consept and scope of the invention.

What is claimed is:

1. A seed of soybean variety XB55K04, representative seed of said soybean variety XB55K04 having been deposited under ATCC Accession No.

2. A soybean plant, or a part thereof, produced by growing the seed of claim 1.

3. The soybean plant part of claim 2 wherein said part is pollen.

4. The soybean plant part of claim 2 wherein said part is an ovule.

5. A tissue culture of protoplasts or regenerable cells produced from the plant of claim 2.

6. The tissue culture according to claim 5, wherein the cells or protoplasts are produced from a plant tissue selected from the group consisting of: leaf, pollen, cotyledon, hypocotyl, embryos, root, pod, flower, shoot and stem.

7. A soybean plant regenerated from the tissue culture of claim 5 having all the morphological and physiological characteristics of soybean variety XB55K04, representative seed of said soybean variety XB55K04 having been deposited under ATCC Accession No.

8. A method for producing a progeny soybean plant comprising

crossing the plant of claim 2 with a different soybean plant,

harvesting the resultant soybean seed, and

growing a soybean plant.

* * * * *

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Foley & Lardner, LLP
P.O. Box 80278
San Diego, CA 92138-0278

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AUG 13 2008

In re Application of	:	
Pekka Pessi	:	
Application No. 10/768,343	:	DECISION ON PETITION
Filed: January 30, 2004	:	TO WITHDRAW
Attorney Docket No. 037145-1001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 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 the attorneys of record were not appointed by customer number 30542.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. A courtesy copy will be mailed to the address noted on the request.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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AUG 24 2004

PHARMACEUTICAL PATENT ATTORNEYS, LLC
55 MADISON AVENUE
4TH FLOOR
MORRISTOWN NJ 07960-7397

In re Application of	:
Ramachandran Thembalath et al	:
Serial No.: 10/768,348	: PETITION TO MAKE SPECIAL
Filed: January 31, 2004	:
Attorney Docket No.: IPCA	:

This is in response to applicants' petition filed June 22, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William R. Silverio
SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street, NE
Atlanta, GA 30309-3996

Mail Date: 04/21/2010

Applicant	: Mark Cohen	: DECISION ON REQUEST FOR
Patent Number	: 7627334	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/768,356	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1348** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OWENS-ILLINOIS, INC.
ONE SEAGATE, 25-LDP
TOLEDO, OH 43666

COPY MAILED

SEP 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert S. Konefal et al	:	
Application No. 10/768,374	:	DECISION GRANTING PETITION
Filed: January 30, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 17794	:	

This is a decision on the petition, filed July 22, 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 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 in compliance with 37 CFR 1.137(b). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [notification of foreign filing under 35 U.S.C. § 122(b)(2)(B)(iii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 8, 2005 accompanies this decision on petition.

After this decision is mailed, petitioner's deposit account No. 15-0875, will be charged the required $1,500 petition fee.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This matter is being referred to Technology Center Art Unit 3727 examination in due course.

Wan Laymon

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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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Leigh P. Gregory
P.O. Box 168
Clemson, SC 29633-0168

MAILED

SEP 02 2005

Director's Office
Group 3700

In re Application of
Skillern
Serial No. : 10/768,397
Filed : January 29, 2004
For : **HYDRATION POUCH WITH DETACHABLE HOSE**

: DECISION ON PETITION
: TO MAKE SPECIAL
: (INFRINGEMENT)

This is a decision on the petition under C.F.R. § 1.102(d) filed April 30, 2004, to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed April 30, 2004, includes all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

rt/ 9/1/05

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,035,330	2006-04-25	10768408	2004-01-30	I018-P10236US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John E. Gunther/	Date (YYYY-MM-DD)	2010-06-21
Name	John E. Gunther	Registration Number	43649

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 7035330
Issue Date: April 25,2006
Application No. 10768408
Filed: January 30,2004
Attorney Docket No. 11471.00.0017

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

This is a decision on the electronic petition, filed June 21,2010 ,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 June 21,2010 . 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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CARMEN B. PATTI & ASSOCIATES, LLC
ONE NORTH LASALLE STREET
44TH FLOOR
CHICAGO IL 60602

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MAR 24 2006

OFFICE OF PETITIONS

Applicant: Florkey et al.
Application No. 10/768,409
Filing Date: January 30, 2004
For: PORTING A DIRECTORY NUMBER FOR A DURATION OF TIME
Attorney Docket No: LUC-466/Florkey
Pub. No.: US 2005/0170826 A1
Pub. Date: August 4, 2005

This is a decision on the request for correction of patent application publication under 37 CFR 1.221 (b), filed on October 28, 2005, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the front page of the patent application publication mistakenly includes Michael Borgatti, as an inventor.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The request for corrected publication received on October 28, 2005, was not timely filed under 37 CFR 1.221(b).

The error in including an extra inventor on the front page of the publication is an Office error, but it is not a material error under 37 CFR 1.221(b). The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

It would greatly benefit the Office if applicant did not provide a complete copy of the published application with the request for a corrected publication, as it unnecessarily increases the cost to the Office. A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

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 (703) 308-8122 (voice).

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/768,409	01/30/2004	2614	788	LUC-466/Florkey 16-10-24	5	21	3

CONFIRMATION NO. 6926

CORRECTED FILING RECEIPT

OC000000018373441

32205
CARMEN B. PATTI & ASSOCIATES, LLC
ONE NORTH LASALLE STREET
44TH FLOOR
CHICAGO, IL 60602

Date Mailed: 03/24/2006

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

Applicant(s)

Cynthia Kae Florkey, Chicago, IL;
Ruth Schaefer Gayde, Naperville, IL;
Victoria Marie Halsell, Aurora, IL;

Power of Attorney:

Barry Freedman--26166
Carmen Patti--26784
Stephen Gurey--27336
Charles Warren--27407
John Garrett--27888
Martin Finston--31613
Jack Penrod--31864
Christopher Malvone--34866
Matthew Hodulik--36164
Jimmy Goo--36528

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/768,409

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Porting a directory number for a duration of time

Preliminary Class

379

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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FEB 2 9 2008

OFFICE OF PETITIONS

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

In re Application of	:	
Satoshi Murakami et al	:	
Application No. 10/768,419	:	DECISION GRANTING PETITION
Filed: February 2, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7245	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 28, 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 November 29, 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 2826 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.*

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

POTOMAC PATENT GROUP PLLC
P.O. BOX 270
FREDERICKSBURG, VA 22404

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FEB 01 2010

In re Application of	:	
Frank A. HUNLETH, et *al.*	:	
Application No. 10/768,432	:	NOTICE UNDER 37 CFR 1.28(C)
Filed: January 30, 2004	:	
Attorney Docket No. **0320-001**	:	

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

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

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

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

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Commissioner for Patents
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Alexandria, VA 22313-1450
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DEC 0 3 2004

TECHNOLOGY CENTER 3600

Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re Application of:
Norman Bruce Moore, et al.
Serial No. 10/768,434
Filed: January 30, 2004
For: PULLER-THRUSTER DOWNHOLE TOOL

DECISION ON PETITION TO MAKE SPECIAL (ENERGY)

This is a decision on the petition filed January 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 VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicants or their attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition includes a statement by applicants' attorney, Edward A Schlatter. Mr. Schlatter states, "The embodiments of the present invention include a tool having a body configured for insertion in a passage, an assembly mounted radially outward from the body, and a gripper coupled to the assembly wherein a fluid may be directed through a chamber of the assembly into a gripper actuation channel to move the gripper into an expanded condition. Compared to prior art drilling tools, the disclosed tractor can be more reliable and simple and can travel at greater speeds."

These statements are insufficient to grant a petition 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 VI: Energy. In this regard, there is nothing in Mr. Schlatter's statement which explains <u>how</u> applicants' invention materially contributes to the discovery or development of energy resources or utilizes and conserves energy resources. A detailed explanation of how the invention meets this criteria is required.

For the above stated reasons, the petition is **DISMISSED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/rwg: 11/09/04

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PIONEER HI-BRED INTERNATIONAL INC.
7100 N.W. 62ND AVENUE
P.O. BOX 1000
JOHNSTON IA 50131

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FEB 09 2005

OFFICE OF PETITIONS

Applicant: Fabrizius et al
Appl. No.: 10/768,435
Filing Date: January 30, 2004
Title: SOYBEAN VARIETY XB06H04
Attorney Docket No.: 1793
Pub. No.: US 2004/0172696 A1
Pub. Date: September 2, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on October 14, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the Abstract on the front page of the publication contains errors.

No specific errors in the Abstract were identified by Applicant. The only error noted in the abstract by the undersigned is that "XB06H04" is misprinted as "XB06R04" in one instance.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . .. 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 typographical error wherein "XB06H04" is misprinted as "XB06R04" in one instance is an Office error, but it is a minor typographical error which is understandable from reading the abstract and sentence in which the term is used, as terms are not read in a vacuum. The variety is identified ten (10) times in the abstract and the identifier is misprinted in one instance. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions 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

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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

MAIL

MAR 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: HIGAKI, et al.
Application No. 10/768,439
Filed: February 2, 2004
For: STORAGE SYSTEM AND STORAGE CONTROL DEVICE

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

This is a response to the petition filed January 3, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

3/17/05

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

SDL: 03/15/05

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DENIRO/RAMBUS
575 MARKET STREET
SUITE 2500
SAN FRANCISCO, CA 94105

Mail Date: 04/21/2010

Applicant	: Frederick Ware	: DECISION ON REQUEST FOR
Patent Number	: 7592824	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/768,443	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: 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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Steven E. Koffs
IP Department
DUANE MORRIS LLP
30 South 17th Street
Philadelphia, PA 19103-4196

In re Application of	:	
Michael D. Suda et al	:	DECISION ON PETITION
Application No. 10/768,454	:	FOR WITHDRAWAL OF
Filed: January 30, 2004	:	THE HOLDING OF
Attorney Docket No.: D0932-00387	:	ABANDONMENT
For: HOSE CONNECTOR	:	

This is in response to applicants' petition for withdrawal of the holding of abandonment filed February 22, 2007.

The petition is **GRANTED**.

Applicants allege that the holding of abandonment by the Office of Patent Publication on February 2, 2007 for failure to file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37) mailed September 29, 2006 is in error. Specifically, it is indicated that the requirement set forth in the Notice of Allowability mailed September 29, 2006 was to either provide corrected drawings or cancel the feature(s) from claim 4 and applicants' complied with this requirement by canceling claim 4 in a timely response filed on December 28, 2006.

A review of the record reveals the following sequence of events:

(1) A Notice of Allowability was mailed September 29, 2006.
(2) An Amendment after Allowance under 37 CFR 1.312 was filed on December 28, 2006 canceling claim 4 and included remarks pointing out that the objection to the drawings was obviated in view of the cancellation of claim 4.
(3) A Response to Rule 312 Communication was mailed January 11, 2007 indicating that applicants' after allowance response was entered.
(3) A Supplemental Notice of Allowability was mailed January 11, 2007 indicating that this communication was responsive to applicants' Rule 312 response and no longer indicating that corrected drawings were required.
(4) A Notice of Abandonment was mailed February 2, 2007.

The Notice of Abandonment mailed February 2, 2007 indicates that the application was held abandoned by the Office of Patent Publication for applicants' failure to timely file corrected drawings as required by the Notice of Allowability mailed on September 29, 2006.

While the examiner did not explicitly state that the requirement for corrected drawings was withdrawn in view of applicants' response of December 28, 2006, the record is clear that this was the examiner's intent since the cancellation of claim 4 obviated the objection to the drawings under 37 CFR 1.83(a) and the boxes under item 5 on the Supplemental Notice of Allowability (PTOL-37) are no longer checked. Accordingly, the record is clear that as of the January 11, 2007 mailing date of the Supplemental Notice of Allowability, no corrected drawings were required.

In view of the above, the holding of the instant application by the Office of Patent Publication as abandoned in the Notice of Abandonment mailed February 2, 2007 is improper and is hereby withdrawn. The instant application is restored to pending status.

The application is being forwarded to the Office of Patent Publication for continued processing for patent grant.

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

SNM/DS: 5/17/07

SM

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OFFICE OF PETITIONS

In re Application of

John D. Hicks

Application No. 10/768,466

Filed: January 30, 3004

Attorney Docket No. 1818

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), November 21, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed May 30, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on August 31, 2006. A Notice of Abandonment was mailed on November 15, 2006.

The issue fee was received on August 31, 2006.

Form PTOL-85B, filed August 31, 2006, is noted and made of record.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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ON PETITION

In re Application of :
Martin Arthur Fabrizius et al :
Application No. 10/768,481 :
Filed: January 30, 2004 :
Attorney Docket No. 1797 :

This is a decision on the petition under 37 CFR 1.313(c), filed February 8, 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 December 17, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1638 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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

---

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

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JOHNSTON IA 50131-0552

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AUG 1 8 2005

OFFICE OF PETITIONS

Applicant: Foss et al.
Appl. No.: 10/768,484
Filing Date: January 30, 2004
Title: SOYBEAN VARIETY XB25X04
Attorney Docket No.: 1802
Pub. No.: US 2004/0172705 A1
Pub. Date: September 2, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on October 18, 2004 for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors, as "soybean variety XB25X04" is misprinted as "soybean variety XB25x04" in the first instance in claim 1 and claim 7.

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 "soybean variety XB25X04" is misprinted as "soybean variety XB25x04" in claim 1 and claim 7 are Office errors, but the mistakes are minor typographical errors, which are clearly understandable to one of ordinary skill in reading the claims. The mistakes are minor typographical errors, which are clearly understandable from reading the claims in which the terms are used, as terms are not read in a vacuum and the phrase is also correctly printed in each claim and throughout the specification. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct 10, 2000) (final rule).

Furthermore, 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 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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AUG 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Stephens et al.	:	
Application No. 10/768,489	:	
Filed: January 30, 2004	:	DECISION ON
Title of Invention:	:	PETITION
SOYBEAN VARIETY XB19U04	:	

This is a decision in response to the "Petition to Withdraw the Holding of Abandonment - Notice of Allowance not Received", filed June 20, 2006. The petition is properly treated under 37 CFR 1.181(a).

The Petition is **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed August 12, 2005. The Notice(s) set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on October 13, 2005. A Notice of Abandonment was mailed June 8, 2006.

The instant petition

Applicant files the instant petition wherein Applicant asserts that the first two pages of the three-page Notice were not

received, and therefore the issue fee could not be paid. Applicant states that upon receipt of the one page of the Notice, Applicant telephoned the Office and was informed that a new Notice of Allowance would be mailed. Applicant has not received the Notice of Allowance. Applicant provides a copy of her docket records as evidence of non-receipt.

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

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

2. A copy of the file jacket or docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in Applicant's statement.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt….

Analysis

In this instance, Applicant admits receipt of one page of the Notice of Allowance and the Notice of Allowability. However, a review of the docket records provided with the petition fail to indicate receipt of neither the one page of the Notice of Allowance, nor the Notice of Allowability.

Applicant also provides that a telephone call was immediately placed to this Office wherein she was informed that a new Notice of Allowance would be mailed. Applicant provides no additional evidence as to the date or time of the telephone call, or from whom Applicant received the promise of re-mailing of the Notice. Applicant is advised that "[a]ll business with the Patent and Trademark Office should be transacted in writing. [] 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. See 37 CFR 1.2.

Applicant is advised that the USPTO file is the official record of the papers in the application. A review of the official file revealed that the Notice of Allowance and issue Fee Due mailed in this application was properly mailed to the correspondence address of record and consisted if three pages. Absent any irregularities in the mail, correspondence is presumed to have been delivered to the correspondence address of record. A review of the file reveals no irregularity in the mailing. In fact, Applicant admittedly received one page of the Notice of Allowance and the Notice of Allowability.

Conclusion

Applicant's assertion, that the Notice was not received, is insufficient to justify withdrawing the holding of abandonment. The evidence presented by Applicant fails to overcome a conclusion that the Notice may have been lost after receipt.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00.

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

that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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In re Application of	:	
Stephens et al.	:	
Application No. 10/768,489	:	ON PETITION
Filing or 371(c) Date 01/30/2004	:	
Attorney Docket Number: 1800	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed September 18, 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, mailed August 12, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on November 13, 2005. A Notice of Abandonment was mailed June 8, 2006.

Applicant has submitted the issue fee with the instant petition.

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

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

Derek L. Woods
Attorney
Office of Petitions

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7100 N.W. 62ND AVENUE
P.O. BOX 1000
JOHNSTON IA 50131

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MAR 18 2005

OFFICE OF PETITIONS

Applicant: Thompson
Appl. No.: 10/768,504
Filing Date: January 30, 2004
Title: SOYBEAN VARIETY XB44D04
Attorney Docket No.: 1828
Pub. No.: US 2004/0172710 A1
Pub. Date: September 2, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on October 20, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. None

Henry T. Brendzel
P.O. Box 574
Springfield NJ 07081

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of :
Jonathan M. Polk :
Application No. 10/768,510 : DECISION ON PETIITON
Filed: January 30, 2004 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket No. Polk 1 :
Title: SYSTEM FOR STORING AND :
DISPLAYING AUDIO/VIDEO WORKS :
:
:

This is a decision on the petition filed January 26, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 18, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 19, 2005. A notice of abandonment was mailed on November 28, 2005.

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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.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, this petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be made aware of this decision.

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

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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

cc: Henry Brendzel
5 Gilbert Pl.
Milburn, NJ 07041

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WILLIAM COLLARD
COLLARD & ROE PC
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of Maier, et al. Application No. 10/768,528 Filed: January 30, 2004 Title: Method for Fermentative Production of L-Methionine	DECISION GRANTING PETITION AND WITHDRAWING THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 24, 2005.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file a response to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures (hereinafter "Notice"), mailed April 9, 2004. This Office action set an extendable period of two (2) months. No reply having been received, the application became abandoned on June 10, 2004. A Notice of Abandonment was mailed on January 14, 2005.

Petitioner states that he did not receive the Notice. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2]

Here, petitioner has submitted a satisfactory docket record showing all replies docketed for a due date of June 9, 2004. An entry for the instant application is absent, supporting the conclusion that the Notice was not received.

Accordingly, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination for re-mailing of the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures, 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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[1] See MPEP 711.03(c)(II).

[2] Id.

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1077 NORTHERN BOULEVARD
ROSLYN NY 11576

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Maier, et al.	:	
Application No. 10/768,528	:	DECISION ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. MAIER ET AL.-4	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 2, 2009.

The petition is **GRANTED**.

The Office mailed a "Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures" on May 21, 2008. This Notice set a period for reply of two months. Although the Office has not yet mailed a Notice of Abandonment, PALM indicates that the application is currently abandoned.

A review of the application file reveals the presence of a response to the Notice, filed on June 2, 2008.

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

The matter is being forwarded to the Office of Patent Application Processing for pre-examination processing, using the reply filed on June 2, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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JJGJr: 02-05

Paper No: __

DAVID T. BRACKEN
LAW OFFICE OF DAVID T. BRACKEN
2839 BOND AVENUE
ORANGE, CA 92869

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FEB 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Shields	:	
Application No. 10/768,539	:	DECISION ON PETITION
Filed: 16 December, 2004	:	
Attorney Docket No. 0009.1E3	:	

This is a decision on the petition filed on 16 December, 2004, requesting that page 12 of the specification (description and claims) be accorded a filing date of 13 December, 2004, and considered under 37 C.F.R. §1.53.

The petition is **DISMISSED**.

A review of the application file reveals that:

- the instant application was deposited on 2 February, 2004;
- on 13 October, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items (the 13 October Notice) indicating that page 12 of the specification (description and claims) was omitted from the application on filing;
- the 13 October Notice also indicated that: (a) a petition should be filed (making the appropriate showings) if Petitioner contended that the omitted item was present on filing; (b) Petitioner might simply submit the omitted item and accept that deposit date of the omitted item as the filing date of the application; or (c) ignore the Notice and accept the application as originally deposited;
- Petitioner chose to do none of the above, but rather filed a on 16 December, 2004–over a 13 December, 2004, certificate of mailing–a petition under 37 C.F.R. §1.182, and, absent an Express Mail filing pursuant to 37 C.F.R. §1.10, requested "Applicant(s) respectfully

petition (sic) that the Page 12 filed herewith be accepted as page 12 of the specification of the application originally filed, according to the application a filing date of December 13, 2004."

ANALYSIS

The submission of a paper under the provisions of 37 C.F.R. §1.8 does not constitute a "filing," but rather a methodology for timely submission.

The methodology for obtaining a filing date of a paper contemporaneous with the tender of that paper to the U.S. Postal Service (USPS) is set forth at 37 C.F.R. §1.10.

Petitioner makes no showing that the submission date of the omitted page was secured under the provisions of 37 C.F.R. §1.10. Rather, Petitioner's express statement in the certificate of mailing is that the certificate is pursuant to the provisions of 37 C.F.R. §1.8.

While Petitioner's actions indicate clearly that he is willing to accept a later filing date in order to complete the application by including the previously omitted page 12 of the specification (description and claims), Petitioner has failed to submit the papers properly to obtain a filing date of 13 December, 2004.

Accordingly, the instant petition as pled is **dismissed**, and the petition fee will not be refunded because the petition was not occasioned by an error of the Office.

The application will be processed and examined using the application papers deposited on 2 February and 16 December, 2004.

The application is being forwarded to OIPE for further processing with a filing date of 16 December, 2004, using the application papers present on deposit on 2 February and 16 December, 2004; furthermore, OIPE is instructed to issue a filing receipt reflecting a filing date of 16 December, 2004.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

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IP LAW
555 BAILEY AVENUE, J46/G4
SAN JOSE, CA 95141

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NOV 21 2007

OFFICE OF PETITIONS

In re Application of :
Ramani Mathrubutham et al :
Application No. 10/768,581 : DECISION GRANTING PETITION
Filed: January 30, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SVL920030049US1 :

This is a decision on the petition, filed November 20, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 31, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2181 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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TECHNOLOGY CENTER 3600

STETINA BRUNDA GARRED & BRUCKER
75 Enterprise
Suite 250
Aliso Viejo, CA 92656

In re application of :
William J. Gilleran :
Application No. 10/768,591 :
Filed: January 30, 2004 :
For: AIR CONDITIONING LINE FLASHING PANEL

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed September 22, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed September 22, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regard to element 2(c) above an Information Disclosure Statement was filed on March 29, 2004.

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

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

for

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

SNM/pav: 10/07/05

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MAY 13 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

CHARLES D. GAVRILOVICH, JR.
GAVRILOVICH, DODD & LINDSEY, LLP
985 PASEO LA CRESTA, SUITE B
CHULA VISTA, CA 91910-6729

In re application of:
Thomas C. Ruvarac
Application No. 10/768,599
Filed: January 30, 2004
For: APPARATUS, SYSTEM AND METHOD FOR MONTORING A LOCATION OF A PORTABLE DEVICE

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on December 15, 2004

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All attorneys/agents associated with customer number 35083 have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Thomas Ruvarac
3095 Wild Meadow
Aurora, Illinois 60504

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JAMES R. SHAY
650 PAGE MILL ROAD
PALO ALTO CA 94304

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JAN 24 2006

OFFICE OF PETITIONS

In re Application of :
Ross Jaffe et al :
Application No. 10/768,605 :
Filed: January 29, 2004 :
Attorney Docket No. 514812000106 :

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 7, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3739 will consider the request for continued examination under 37 CFR 1.114.

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

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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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 22, 2007

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No./10/768612 patent no.6972236

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

CHARLES D. GARBER
SUPERVISORY PATENT EXAMINER

SPE — 2812 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Texas Instruments Incorporated
P.O. Box 655474, M/S 3999
Dallas, TX 75265

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OFFICE OF PETITIONS

In re Application of :
Robert G. DeMoor :
Application No. 10/768,614 :
Filed: January 30, 2004 :
Attorney Docket No. TI-35548 :

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, August 10, 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 November 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

There is no indication that the person signing the 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 Gerald E. Laws 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.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2622 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Carl Friedman
Petitions Examiner
Office of Petitions

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SUITE 370
ALEXANDRIA, VA 22314

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JUN 0 8 2006

TECHNOLOGY CENTER 2100

In re Application of: YAMAMOTO, et al.
Application No. 10/768,648
Filed: 02 February 2004
For: METHOD FOR COUPLING STORAGE DEVICES OF CLUSTER STORAGE

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

This is a decision on the petition filed 07 July 2005, to make the above-identified application special under 37 CFR 102(d) and MPEP § 708.02(VIII): Accelerated Examination.

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 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 Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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Alan H. Thompson
Lawrence Livermore National Laboratory
P.O. Box 808, L-703
Livermore CA 94551

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JAN 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Wickboldt et al	:	DECISION DISMISSING
Appl. No. 10/768,656	:	PETITION UNDER
Filed: June 29, 2001	:	37 CFR 1.183
	:	

This is a decision on the applicant's October 13, 2006 PETITION TO WAIVE SIGNATURES OF NON-AVAILABLE INVENTORS UNDER (37 CFR §1.183), requesting suspension or waiver of the regulations (presumably §1.172) that require all of the inventors to sign a supplemental declaration in a reissue application.

The petition is dismissed.

BACKGROUND

1. U.S. Patent No. 5,918,140 (the '140 patent) issued to Wickboldt, Carey, Smith and Ellingboe, on June 29, 1999.

2. A broadening reissue application (the present application) was filed for the '140 patent on June 29, 2001, and it was assigned application number 10/768,656 (the '656 application).

3. During the prosecution of the '656 application, the Office required a supplemental reissue declaration to correct defects in the original reissue declaration. When the supplemental reissue declaration was filed by applicants, signatures were missing for two of the inventors, and no petition under 37 CFR 1.183 was included for waiver of the requirement for the two missing signatures. By final Office action mailed April 17, 2006, claims 1-25 and 27-34 were rejected under 35 U.S.C. 251 as being based upon a defective reissue declaration.

4. On October 13, 2006, applicants filed the present petition under 37 CFR 1.183 requesting the Office to waive the requirement for the two missing signatures on the supplemental declaration under 37 CFR 1.175(b)(1) based on the unavailability of the non-signing inventors.

5. On March 16, 2006, applicants filed a "Supplemental Declaration for Reissue Patent Application To Correct 'Errors" Statement (37 CFR 1.175)," executed by joint inventors Paul Wickboldt and Paul Carey. The supplemental declaration was missing the signatures of inventors Patrick Smith and Albert Ellingboe. It is for this supplemental declaration that the present petition requests acceptance, via waiver of the regulations.

6. Petitioner states that the attorney for applicants has diligently searched for inventors Smith and Ellingboe to obtain their signatures for the supplemental oath/declaration under 37 CFR 1.175(b)(1). Further, petitioner states that such a search took place since the receipt of the Office action mailed on April 17, 2006 until the mailing of the present communication (presumably the present petition), but the obtainment of their signatures has not been met with any success.

DECISION

The provisions of 35 U.S.C. 251, which are directed to reissue of patents, do not address the signature requirements of a declaration or oath in reissue. As to the reissue regulations, 37 CFR 1.172 requires that a reissue declaration or oath be made (and signed) by the inventors, except as otherwise provided (37 CFR §§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. In addition, 37 CFR 1.175(b)(1), requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit **a supplemental oath or declaration** stating that every such error arose without any deceptive intention on the part of the applicant." [Emphasis added]

37 CFR 1.175(b)(1), taken in conjunction with 37 CFR 1.172, requires that a supplemental oath or declaration be signed by all of the inventors. This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. See *In re Hayes*, 53 USPQ2d 1222 (Comm'r Pat. 1999). Thus, each oath and/or declaration must bear the appropriate signatures of the inventors.

In the present instance, the supplemental declaration is not signed by all of the inventors. 37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicants have requested, via the present petition, a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by all of the inventors.

The petition is not grantable. Petitioner has not made an adequate showing that waiver of the requirement that all of the inventors sign the supplemental reissue declaration is warranted. Petitioner merely states that a diligent search for the non-signing inventors has been unsuccessful. A showing has not, however, been made as to what efforts were undertaken and why they were unsuccessful. The petition does not include a statement of facts, signed by a person having firsthand knowledge, that fully describes the exact facts which are relied upon to establish that a diligent effort was made. Nor does the petition include copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions or telegrams, that would support a finding that the non-signing inventors could not be found or reached. All steps taken to locate the whereabouts of the non-signing inventors should be included in the statement of facts.

Since the showing as to extraordinary circumstances is incomplete, § 1.183 cannot be invoked in order to waive § 1.175. Accordingly, this petition is being dismissed.

CONCLUSION

The petition is <u>dismissed</u>.

Any petition provided in response to this decision must be accompanied by sufficient proof that the non-signing inventors (i) cannot be found or reached after a diligent effort, or (ii) refuse to execute the declaration.

Any renewed petition in response to this decision must be filed within **ONE (1) MONTH** of the mailing date of this decision.

Any question regarding this decision may be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

1-12-07
C:\Kiva\Kenpet6\10768656_183 waiver of 172 dismiss.wpd

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SUITE 800
WASHINGTON DC 20037

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JAN 05 2006

OFFICE OF PETITIONS

In re Application of	:	
Gerd Michaelis et al	:	
Application No. 10/768,659	:	ON PETITION
Filed: February 2, 2004	:	
Attorney Docket No. Q79185	:	

This is a decision on the petition, filed January 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 November 23, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2863 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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : January 5, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

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OFFICE OF PETITIONS

Applicant(s) :Gerd Michaelis et al
Application No. :10/768,659
Filed :February 2, 2004

The above-identified application has been assigned Patent No. 6,990,413 and an issue date of January 24, 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 24, 2006:

"All reference to Patent No. 6,990,413 to Gerd Michaelis et al of Germany for METHOD FOR OPERATING A ROLLER TEST BENCH AND ROLLER TEST BENCH appearing in the Official Gazette of January 24, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/768660

Paper No.: —

DATE : 1/18/06

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 6974983 B1

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.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

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

Comments:

SPE

2823
Art Unit

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Hosoya
Application No. 10/768,669
Filed: February 2, 2004
For: DATA TRANSFER METHOD AND DISK CONTROL UNIT USING IT

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

This is a response to the petition filed July 6, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

AWK

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Darko Pervan	: DECISION ON REQUEST FOR
Patent Number	: 7637068	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/768,677	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **536** 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Laurent Maniglier	: DECISION ON REQUEST FOR
Patent Number	: 7588417	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/768,695	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1363** 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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10 POST OFFICE ROAD - SUITE 110
SILVER SPRING, MD 20910

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NOV 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Morris, Elliott, and Perry :
Application No. 10/768,711 :
Filed: February 2, 2004 :
Attorney Docket No. 5394 :
For: Optical Sensor, Printing Station :
and Printing Method :

Decision According Status
Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed August 17, 2005.

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 fee for a petition under 37 CFR 1.47 is $200. Petitioner submitted $130. Therefore, $70 was charged to petitioner's deposit account.

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue to prepare the application for examination.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No.

Holland & Bonzagni, P.C.
Longmeadow Professional Park
171 Dwight Road, Suite 302
Longmeadow, MA 01106-1700

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JUL 0 8 2004
OFFICE OF PETITIONS

In re Application of	:	
Moises Calderon	:	
Application No. 10/768,728	:	DECISION GRANTING
Filed: January 29, 2004	:	PETITION
Attorney Docket No. N/A	:	

This is a decision on the petition filed April 20, 2004, requesting that the above-identified application be accorded a filing date of January 29, 2004, rather than the presently accorded date of January 30, 2004. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on January 29, 2004 pursuant to 37 CFR 1.10. Applicants are alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is January 29, 2004. While the copy of the Express Mail label receipt no. EV373381201US bears a handwritten "date-in" of January 30, 2004, petitioner has provided a copy of the USPS' Express Mail Track and Confirm Database which shows that the package in question was "enroute from Springfield, MA to Virginia on January 29, 2004." To further support petitioner's allegations, a letter from the USPS confirms that the package was, in fact, deposited with the USPS on January 29, 2004.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. However, in view of the conflicting dates on the label and the results from the USPS' Express Mail Track and Confirm database, petitioner has provided sufficient evidence to confirm that the package bearing Express Mail label No. EV373381201US was accepted on January 29, 2004.

This application file is being returned to the Office of Initial Patent Examination Division for **correction of the filing date to January 29, 2004.**

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Brian Hearn

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

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HOLLAND & BONZAGNI, P.C.
171 DWIGHT ROAD, SUITE 302
LONGMEADOW MA 01106-1700

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Moises Calderon
Application No. 10/768,728
Filed: January 29, 2004
Attorney Docket No. None

This is a decision in response to the petition, filed December 11, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed May 22, 2007. A Notice of Abandonment was mailed on December 5, 2007. In response, on December 11, 2007, the present petition was filed, along with an amendment and a 3-month petition for extension of time.

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

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or within the response period set by statute. In no case, however, may an applicant respond later than the maximum time period set by statute. The extension of time submitted December 11, 2007 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired, i.e., August 23, 2007. Since no extension of time fees are due on a petition for revival, the $525 extension fees submitted after abandonment are being credited to counsel's deposit account.

The application is being referred to Technology Center AU 3762 for consideration of the amendment filed December 11, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Holland & Bonzagni, P.C.
171 Dwight Road, Suite 302
Longmeadow, MA 01106-1700

In re Application of	:	
Moises Calderon	:	
Application No. 10/768,728	:	DECISION ON PETITION
Filed: January 29, 2004	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 11, 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).

All future correspondence will be mailed to the assignee.

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

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Innovamedica S.A. de C.V.
Cantil #175 Casa 4, Col. Jardines Del
Pedregal, Alvaro Obregon
Mexico, DF 01900, Mexico

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/768,728	01/29/2004	Moises Calderon	

CONFIRMATION NO. 7953

POWER OF ATTORNEY NOTICE

27804
HOLLAND & BONZAGNI, P.C.
171 DWIGHT ROAD, SUITE 302
LONGMEADOW, MA 01106-1700

OC000000030917270

Date Mailed: 07/11/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/11/2008.

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

/kainabinet/

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

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JJGJR.: 03-05

Paper No: __

DAVIDSON BERQUIST JACKSON
& GOWDEY LLP
4501 NORTH FAIRFAX DRIVE,
SUITE 920
ARLINGTON VA 22203

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MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Monroe, et al.	:	
Application No. 10/768,738	:	ON PETITION
Filed: 2 February, 2004	:	
Attorney Docket No. 2615-0014	:	

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 3 February, 2005

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 2 February, 2004, without, *inter alia*, a fully executed oath or declaration;

- on 4 August, 2004, the Office mailed a Notice of Missing Parts, setting forth, *inter alia*, the an executed oath/declaration was required;

- on 3 February, 2005, Petitioner Brian Siritzky (reg. No. 37,497) filed the instant petition, containing his statement of events, a copy of the oath/declaration signed by named co-inventors Ms. Kennedy and Mr. Wilson on behalf of themselves and the nonsigning co-inventors Klayton Monroe (Mr. Monroe) and Bruce D. Mayhew (Mr. Mayhew), and

documentation supporting the allegation that the entire application had been sent to Messrs. Monroe and Mayhew, but as of filing of the petition they had failed to sign the oath/declaration;

- Petitioner also set forth the last known mailing addresses of the non-signing inventors Messrs Monroe and Mayhew.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

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DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of
MONROE, Klayton
Application No. 10/768,738
Filed: February 02, 2004
Attorney Docket No. **2615-0014**

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 February 16, 2007.

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

A review of the file record indicates that the power of attorney to DAVIDSON BERQUIST JACKSON & GOWDEY LLP has been revoked by the Andrew L. Riebman of the patent application on March 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CHARLES A. WEISS, ESQ.**
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

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255 EAST FIFTH STREET
CINCINNATI OH 45202

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In re Application of	:	
Patricia Ann Piers et al	:	
Application No. 10/768,755	:	ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. 2479-23	:	

This is a decision on the petition, filed May 5, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

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

---

[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 2873 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
DAVID WEBER
ADVANCED MEDICAL OPTICS, INC.
1700 E. ST. ANDREW PLACE
SANTA ANA, CA 92705

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. _____

Date : May 8, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Patricia Ann Piers et al
Application No. :10/768,755
Filed :January 30, 2004

The above-identified application has been assigned Patent No. 7,048,377 and an issue date of May 23, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 23, 2006:

"All reference to Patent No. 7,048,377 to Patricia Ann Piers of Netherlands for METHODS OF OBTAINING OPHTHAMIC LENSES PROVIDING THE EYE WITH REDUCED ABERRATIONS appearing in the Official Gazette of Ma 23, 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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OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHT FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of	:	
Daisuke YOSHIDA, et al	:	
Application No. 10/768,757	:	ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. 16869N-104300US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 14, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2621 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Thurman Page
Petitions Examiner
Office of Petitions

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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DEC 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Theodore Thomas BLACKMON	:	
Application No. 10/768,758	:	DECISION ON PETITION
Filed: January 30, 2004	:	TO WITHDRAW
Attorney Docket No. 107051-0023	:	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 12, 2008.

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

A review of the file record indicates that the power of attorney to Carr & Ferrell LLP, has been revoked by the assignee of the patent application on October 29, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record is the address indicated below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: BENTLEY SYSTEMS
685 STOCKTON DRIVE
EXTON, PA 19341

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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ZAGORIN O'BRIEN & GRAHAM
7600B N. CAPITAL OF TEXAS HWY.
SUITE 350
AUSTIN, TX 78731

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SEP 01 2004

OFFICE OF PETITIONS

In re Application of	:	
Uttam Ghoshal et al	:	
Application No. 10/768,767	:	NOTICE
Filed: January 30, 2004	:	
Attorney Docket No. NNC-009	:	

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This matter is being referred to Technology Center AU 3753.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

12-20-06

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,125,882
Ser. No. : 10/768,769
Inventor(s) : Nicholas V. Perricone
Issued : October 24, 2006
Title : TREATMENT OF ACNE USING ALKONOLAMNE COMPOSITIONS
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.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 111** or (703) 308-8309

Stephen Mcnamara
St. Onge Steward Johnston & Reens, LLC
986 Bedford Street
Stamford CT 06905-5619

ej

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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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APR 13 2007

OFFICE OF PETITIONS

In re Patent No. 7,125,882
Issued October 24, 2006
Application No. 10/768,769
Filed: January 30, 2004
Attorney Docket Number: 00961-P0146C

ON PETITION

This is a decision on the petition, filed February 22, 2007, under 37 CFR 3.81(b) [1] to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

The petition, claims that assignment data was included in the PTOL-85B filed June 7, 2006 when in fact no assignment should have been supplied as the present application remained unassigned at the time. Accordingly, petitioner requests that a certificate of correction be issued to remove the assignment information on the front page of the Letters Patent.

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

Office assignment records reflect that at the time the issue fee was paid, there was no assignment but instead a security agreement had been given to UNION BANK OF CALIFORNIA and that a subsequent assignment was recorded, after the payment of

---

[1] *See* Official Gazette of June 22, 2004

the issue fee. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee in the amount of $130.00 has been charged to petitioner's credit card and per the authorization in the petition, the fee for the certificate of correction has been charged to petitioner's deposit account no. 19-4516.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JAN 1 4 2005

OFFICE OF PETITIONS

In re Application of: George Matlock	:	
Application No. 10/768,778	:	NOTICE
Filed: January 30, 2004	:	
Attorney Docket No. 017761-003900US	:	

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:	
Matlock, George	:	DECISION ON PETITION
Application No. 10/768,778	:	TO WITHDRAW
Filed: January 30, 2004	:	FROM RECORD
Attorney Docket No. 017761-003900US	:	

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

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

A review of the file record indicates that the power of attorney to the attorneys associated with Customer Number 20350 has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

OPPENHEIMER WOLFF AND DONNELLY LLP
45 S SEVENTH ST STE 3300
PLAZA VII
MINNEAPOLIS, MN 55402

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JAN 1 4 2005

OFFICE OF PETITIONS

In re Application of: Oren A. Mosher, et. al.	:	
Application No. 10/768,780	:	NOTICE
Filed: January 30, 2004	:	
Attorney Docket No. 017761-004000US	:	

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SAN FRANCISCO CA 94111-3834

In re Application of	:	
Mosher, et al.	:	
Application No. 10/768,780	:	DECISION ON PETITION
Filed: January 30, 2004	:	TO WITHDRAW
Attorney Docket No. 017761-004000US	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Mark D. Barrish on behalf of all attorneys of record who are associated with customer No. 20350.

All attorneys/agents associated with the Customer Number 20350 have been withdrawn.

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

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

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

There is an outstanding Office action mailed September 12, 2006 that requires a reply from the applicant.

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

April Wise

April M. Wise
Petitions Examiner
Office of Petitions

cc: Oren A. Mosher
6354 Mount Olympus Drive
Castro Valley, CA 94552

cc: OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET
SUITE 3300
MINNEAPOLIS, MN 55402

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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
10/768,780	01/30/2004	Oren A. Mosher	017761-004000US

CONFIRMATION NO. 7152

OC000000020656511

OC000000020656511

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 10/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/05/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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OFFICE OF THE DIRECTOR
TC 3600

BRIAN ROFFE, ESQ.
11 Sunrise Plaza, Suite 303
Valley Stream, NY 11580-6170

In re application of
David S. Breed et al
Application No. 10/768,791
Filed: January 30, 2004
For: SIDE IMPACT SENSOR SYSTEMS

DECISION ON PETITION TO MAKE SPECIAL APPLICANT'S AGE)

This is a decision on the petition submitted on June 25, 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 passport for Mr. Breed indicating that he is at least 65 years of age.

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

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the

application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

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

SNM/pav: 7/28/04

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SCOTT P. ZIMERMAN PLLC
P O BOX 3822
CARY, NC 27519

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MAR 09 2007

OFFICE OF PETITIONS

In re Application of Binning :
Application No. 10/768,801 :
Filing Date: January 30, 2004 :
Attorney Docket No. BS030370 :

Decision on Petition

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

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the "Notice of Drawing Inconsistency With Specification" mailed September 6, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on December 7, 2006. A Notice of Abandonment was mailed November 17, 2006.

Normally, the petition could be granted. However, the petition does not appear to be accompanied by the petition fee of $1,500. Therefore, the petition must be dismissed.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. The request should include the $1,500 petition fee. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SCOTT P. ZIMERMAN PLLC
P O BOX 3822
CARY, NC 27519

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JUN 0 4 2007

OFFICE OF PETITIONS

In re Application of Binning :
Application No. 10/768,801 : Decision on Petition
Filing Date: January 30, 2004 :
Attorney Docket No. BS030370 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 29, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the "Notice of Drawing Inconsistency With Specification" mailed September 6, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on December 7, 2006. A Notice of Abandonment was mailed November 17, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Publications will be informed of the instant decision and will review the amendment filed November 27, 2006, in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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FAKHRUDDIN T ATTARWALA
1 BELLAIRE DRIVE
PRINCETON NJ 08540

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DEC 2 3 2004

OFFICE OF PETITIONS

In re Application of	:
Fakhruddin T. Attarwala	:
Application No. 10/768,803	: DECISION DISMISSING
Filed: January 31, 2004	: PETITION
Title of Invention: INTEGRATED	:
OPTIMIZATION AND CONTROL USING	:
MODULAR MODEL PREDICTIVE	:
CONTROLLER	:

This is a decision on the petition filed November 29, 2004, in response to the Notice To File Corrected Application Papers mailed November 18, 2004, requesting that Figure 27 be accepted as having been filed with the original application. The petition is being treated under 37 CFR 1.182.

On January 31, 2004 the application was filed.

On November 18, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice To File Corrected Application Papers stating that while the application had been accorded a filing date of January 31, 2004, it appeared that Figure 27, as described in the specification, appeared to have been omitted from the application.

In response, petitioners argue that a complete application was present on January 31, 2004, and while petitioners request that the application be accorded a filing date of January 31, 2004, with Figure 27 as a part of the original disclosure, no corroborating evidence has been submitted.

The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

The petition is DISMISSED.

The copy of Figure 27 supplied with the present petition will not be used for processing or examination, but will be retained in the application file. Petitioner may file Figure 27 as a preliminary amendment. If Figure 27 is filed as a preliminary amendment, the amendment will be reviewed for new matter.

As the evidence presented is not sufficient to prove that Figure 27 was filed with the application when filed, the evidence is insufficient to show that the error was committed by the USPTO and thus, the petition fee will not be refunded.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 31, 2004, using only the application papers filed on that date and not the copy of Figure 27 submitted with the petition.

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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Paper No. 021705

WAGNER MURABITO AND HAO LLP
THIRD FLOOR
TWO NORTH MARKET STREET
SAN JOSE, CA 95113

FEB 24 2005

In re Application of:	:	
LUDWIG *et al.*	:	
Serial No.: 10/768,806	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: January 30, 2004	:	
Attorney Docket No.: **CDST-A132-1C**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed January 28, 2005.

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

The request meets all the above stated requirements. The request was signed by John P. Wagner, Jr., on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Ronald J. Meetin, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: RONALD J. MEETIN, ATTORNEY AT LAW
210 CENTRAL AVENUE
MOUNTAIN VIEW, CA 94043-4869

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1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND OH 44115-1414

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NOV 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Wu et al.	:	
Application No. 10/768,832	:	DECISION ON PETITION
Filed: January 29, 2004	:	
Attorney Docket No. 66329/00160	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 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.

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

This matter is being referred to Technology Center AU 2189 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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JJGJR.: 09-04

Paper No: __

WILLIAM S. FROMMER, ESQ.
FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE, 10TH FL.
NEW YORK NY 10151

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SEP 16 2004

OFFICE OF PETITIONS

In re Application of
Yamamoto :
Application No. 10/768,841 : DECISION ON PETITION
Filing Date: 30 January, 2004
Attorney Docket No.450100-03216.1 :

This is a decision on the petition filed on 6 July, 2004, to obtain a filing date of 30 January, 2004, for Fig. 6 as described in the specification.

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

BACKGROUND

This nonprovisional application was deposited on 30 January, 2004.

On 15 June, 2004, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application," and indicated that, while a filing date had been granted, "Figure(s) 6" appeared to have been omitted from the application.

Petitioner filed the instant petition on 6 July, along with, *inter alia*, a copy of a date-stamped ("013004") receipt card, a copy of the "Figure(s) 6" and indicating that the figure had been submitted not to accept a later filing date, but rather as replacement for the drawing previously filed. Further, Petitioner's receipt card indicates, *inter alia*, that the following items had been received by the Office:

* * *

x Preliminary Amendment

* * *

x Application for Patent including
82 Pages Specification 42 Claims x Abstract
x Declaration . . . x Oath
x Request for filing Continuation . . . Application 2 sheets

* * *

x Drawing 18 Sheet(s) (19 figures)

* * *

Because the return postcard receipt (see: MPEP §503[1]) properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that the Figure 6 of the application was submitted on 30 January, 2004, and subsequently was misplaced in the Office.

Accordingly, the petition under 37 C.F.R. §1.53 is **granted**; the petition fee is waived; and the Notice mailed on 15 June, 2004, hereby is withdrawn as to Figure(s) 6.

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

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

* * *

RETURN POSTCARD

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

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

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

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

This application is released to the Office of Initial Patent Examination for further processing with a filing date of 30 January, 2004, using:

1. pages 1 - 82 (Specification, Claims and Abstract) and Figures 1 -5 and 7 - 19 deposited on 30 January, 2004; and

2. Figure 6 deposited on 6 July, 2004;

3. with direction to OIPE to correct Office records to reflect that 82 pages of specification and 18 sheets of drawings (19 figures) were present on filing on 30 January, 2004, and forward to Petitioner a corrected filing receipt setting forth a filing date of 30 January, 2004, reflecting therein that 82 pages of specification and 18 sheets of drawings were present on filing.

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

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

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

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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AUG 06 2008

In re Application of	:	
Sergio Kolor et al	:	
Application No. 10/768,845	:	DECISION ON PETITION
Filed: January 29, 2004	:	
Attorney Docket No. 030603	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Rejection mailed, February 23, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on May 24, 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 $1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

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MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-4108

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APR 27 2004

OFFICE OF PETITIONS

In re Application of	:
Hough et al.	:
Application No. 10/768,850	:DECISION GRANTING PETITION
Filed: 30 January, 2004	:
Attorney Docket No. 010395-9282-00	:

This is a decision on the petition filed on 8 March, 2004, requesting that the above-identified application be accorded a filing date of 30 January, 2004, instead of the presently accorded filing date of 31 January, 2004.

The petition is **GRANTED**.

Petitioner asserts that the application was deposited in Express Mail service on 30 January, 2004. Petitioner states that the "date-in" of "01-31-03" placed on the Express Mail Customer Label, however, was entered in error. In support of petitioner's contention that the application was deposited in Express Mail Post Office to Addressee Service on 30 January, 2004, petitioner supplied, on 8 March, 2004, a copy of the tracking report printed from the USPS Internet Track & Confirm and database, which shows that a mailing bearing Express Mail Label No. EV320607708US (the same Express Mail number found on the itemized transmittal sheet filed with the original application papers located in the official file) was accepted by the USPS on 30 January, 2004.

Petitioners have also supplied a copy of a U.S. Postal Service Pickup Service Statement--Express Mail, Priority Mail, or Parcel Post bearing, *inter alia*, Express Mail Label No. EV320607708US. The USPS Service Statement also bears the signature of a USPS employee and a pickup date of "1/30/04".

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is 30 January, 2004.

In view of the above, the application is entitled to a filing date of 30 January, 2004.

The petition is granted.

The application is being returned to Office of Initial Patent Examination for reprocessing with a filing date of 30 January, 2004, not 31 January, 2004, and for issuance of a corrected Filing Receipt.

Telephone inquiries may be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Bingham McCutchen LLP
2020 K. Street, NW
Washington DC 20006

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JAN 25 2010

In re Application of	:	
Dicarlo et al.	:	
Application No. 10/768,855	:	DECISION ON PETITION
Filed: January 29, 2004	:	
Attorney Docket No. 10123/01001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of August 27, 2009 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 28, 2009. *See* MPEP 1214.06. A Notice of Abandonment was mailed October 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office. Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

The file is now being forwarded to Technology Center 3767 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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GTC BIOTHERAPEUTICS, INC.
175 CROSSING BOULEVARD
SUITE 410
FRAMINGHAM, MA 01702

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APR 25 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Harry M. Meade et al :
Application No. 10/768,873 :
Filed: January 30, 2004 :
Attorney Docket No. GTC-6C :

This is a decision on the paper styled "Request Under 37 CFR § 1.63 to Modify Order of Inventors," filed March 22, 2005, which is being treated under 37 CFR 1.182, 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. Harry M. Meade
2. Michael Young
3. Ian Krane

A corrected filing receipt was mailed on April 4, 2005.

This matter is being referred to Technology Center AU 1632 for examination in due course.

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.

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

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

Mail Date: 04/21/2010

Applicant	: Ian A. Trail	: DECISION ON REQUEST FOR
Patent Number	: 7582107	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/768,875	: OF WYETH
Filed	: 01/30/2004	:
		:

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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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

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MAR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Kenji Murakami	:	DECISION ON PETITION
Application Number: 10/768879	:	
Filing Date: 01/30/2004	:	
Attorney Docket Number: KIT-363	:	
	:	

This is a decision on the petition filed on February 3, 2009, under 37 CFR 1.137(a),[1] 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(a)," or "Petition Under 37 CFR 1.137(b)."

---

[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

The application became abandoned on September 28, 2008, for failure to timely file a proper response to the final Office action mailed on June 27, 2008, 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. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner asserts that the final Office action mailed on June 27, 2008 was never received. In support, petitioner has provided, *inter alia*, a declaration by registered patent practitioner C. Andrew Im stating that he has no record of receiving the final Office action.

The petition is also accompanied by a proposed amendment after final rejection in response to the June 27, 2008.

REQUIRED REPLY

At the outset, the reply filed with the subject petition in response to the final Office action is an amendment after final. The only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance.

The examiner has determined that the after-final amendment submitted with the subject petition fails to place the application in condition for allowance. Assuming, *arguendo*, the final Office action had been timely received, or that petitioner had shown that that the final Office action was never received, the application would nevertheless be abandoned for failure to file a timely and proper reply to the final Office action.

A copy of the Advisory Action Before the Filing of an Appeal Brief is enclosed for petitioner's reference.

It is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed. The rule clearly indicates that the mere filing of an amendment does not relieve petitioner of the duty of taking appropriate action to save the application from abandonment. Therefore, whether petitioner received an Advisory Action or not, prior to the expiration of the six month statutory period, the only right petitioner was entitled to was that of appealing the final rejection, filing a continuing application, or requesting continued examination by filing a submission and the required

fee. This application became abandoned for failure on the part of petitioner to timely file an appeal, a continuing application, or a request for continued examination accompanied by a submission.

Petitioners are encouraged to consider the filing of a petition under 37 CFR 1.137(b), accompanied by a proper reply to the final Office action mailed on June 27, 2008.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the final Office action mailed on June 27, 2008, and in the absence of any irregularity in the mailing, there is a strong presumption that the final Office action mailed on June 27, 2008 was properly mailed to the address of record. This presumption may be overcome by a showing that the final Office action mailed on June 27, 2008 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

> 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.**
>
> (emphasis added)

At the outset, petitioner has not provided a statement from the practitioner to the effect 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. Any renewed petition should be accompanied by a proper statement made by the practitioner.

Petitioner has not provided a copy of the master docket for the firm.

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.

PETITION UNDER 37 CFR 1.137(a)

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

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

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

The petition lacks item (1) and (3).

With regards to item (1), the required reply to the final Office action has not been filed. As stated above, the only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance.

The examiner has determined that the after-final amendment submitted with the subject petition fails to place the application in condition for allowance.

With regards to item (3), the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[2] 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.[3]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of

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[2] 35 U.S.C. § 133.

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

otherwise reliable employees, the response is not timely received in the Office.[4]

Petitioner's argument has been considered, but is not persuasive. Petitioner is responsible for the proper prosecution of his application. A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[5] 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: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[6]

Petitioner asserts unavoidable delay because the final Office action mailed on June 27, 2008, was never received. As stated above, petitioner's showing that the final Office action mailed on June 27, 2008 was never received is lacking because the requirements set forth in MPEP 711.03(c) to establish that an Office communication was never received have not been met. Further, petitioner has not shown that a proper reply in accordance with 37 CFR 1.116 was intended to be filed. Accordingly, the showing of record does not support a finding that the delay was unavoidable. The petition must therefore be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[5] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v, Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[6] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 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 filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned 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).

Should petitioners decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $1,620.00.

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

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

By 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

Encls: Advisory Action Before the Filing of an Appeal Brief
Form PTO/SB/64

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/768,879	MURAKAMI, KENJI	
	Examiner	Art Unit	
	NATHAN BLOOM	2624	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____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: *1,3,5,6 and 13-15*.
   Claim(s) withdrawn from consideration: *2,4,7,8 and 10-12*.

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: Applicant's arguments with regards to the current amendment are persuasive in that the currently cited prior art does not teach the newly added claim limitation. However, since this language has not been reviewed by the Examiner in previous searches, further search and consideration will be required.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

PTO/SB/64 (02-09)
Approved for use through 03/31/2009. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

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

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DW Jun-09

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

COPY MAILED

JUN 16 2009

OFFICE OF PETITIONS

In re Application of :
Kenji Murakami :
Application Number: 10/768879 :
Filing Date: 01/30/2004 :
Attorney Docket Number: KIT-363 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on April 9, 2009, which, in view of petitioner's showing that the final Office action was not received, is first treated as a renewed petition under 37 CFR 1.137(a).

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

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

This application became abandoned on September 28, 2008 for failure to timely file a proper reply to the final Office action mailed on June 27, 2008, 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. The filing of the present petition precedes the mailing of Notice of Abandonment.

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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)).

On February 3, 2009, a petition under 37 CFR 1.137(a) was filed. On March 23, 2009, the petition was dismissed. On April 9, 2009, the subject petition was filed, accompanied by a request for continued examination (RCE) and submission under 37 CFR 1.114 as well as a terminal disclaimer.

PETITION UNDER 37 CFR 1.137(a)

In submitting the renewed petition, petitioner's counsel states that applicant requests reconsideration of the decision, and has included a declaration by the registered patent practitioner stating the practitioner, C. Andrew Im, searched and reviewed the file jacket and firm docketing record and did not find an entry or copy of the final Office action. A copy of the docket record is referenced in and provided with the statement.

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

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

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

The petition lacks item (3).

With regards to item (3), the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[2] 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.[3]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

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[2] 35 U.S.C. § 133.

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner's argument has been considered, but is not persuasive. In this regard, while petitioner has presented, with the renewed petition, a showing in support of petitioner's allegation that the final Office action was not received, the showing of record is uncontroverted that petitioner intended to file an amendment after final rejection in response to that final Office action, and that the amendment after final rejection did not place the application in condition for allowance.

Specifically, petitioner filed an amendment after final rejection on February 3, 2009, and the examiner determined, as stated in the Advisory Action mailed on March 18, 2009, that the amendment of February 3, 2009 fails to place the application in condition for allowance.

In this regard, 37 CFR 1.116(c) states that the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or reexamination proceeding from its condition as subject to appeal or to save the application from abandonment under § 1.135.

Accordingly, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed. The rule clearly indicates that the mere filing of an amendment does not relieve petitioner of the duty of taking appropriate action to save the application from abandonment. Therefore the only right petitioner was entitled to was that of appealing the final rejection or by filing a request for continued examination or a continuing application. This application became abandoned for failure on the part of petitioner to timely file an appeal, an amendment placing the application in condition for allowance, a request for continued examination, or a continuing application.

Petitioner is responsible for the proper prosecution of his application. A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[5] 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: (1) the applicant's

---

[5] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v, Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[6]

As petitioner has not shown that a proper reply in accordance with 37 CFR 1.116 was intended to be filed. Accordingly, the showing of record does not support a finding that the delay was unavoidable. The petition must therefore be again dismissed.

PETITION UNDER 37 CFR 1.137(b)

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

The Terminal Disclaimer filed on April 9, 2009, is not required since the application was not filed prior to June 8, 1995. Therefore, the Terminal Disclaimer has not been accepted and will not be entered, but will remain in the application file. The Terminal Disclaimer fee of $140.00 will be refunded to petitioner.

This application is being referred to Technology Center Art Unit 2624 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[6] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

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

Mail Date: 05/19/2010

Applicant	: James H. Brauker	: DECISION ON REQUEST FOR
Patent Number	: 7632228	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/768,889	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1721** 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

DATE : 4/20/10 Paper No.: —

TO SPE OF : ART UNIT 3768

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/768889 Patent No.: 7632228 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

AU 3768

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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
10/768,896	01/30/2004	2851	770	1232-5268	16	18	2

CONFIRMATION NO. 7295

CORRECTED FILING RECEIPT

OC000000014035871

27123
MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

Date Mailed: 10/08/2004

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

Applicant(s)

Toshihiko Tsuji, Tochigi, JAPAN;

Power of Attorney: The patent practitioners associated with Customer Number **27123**.

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2003-324639 09/17/2003

If Required, Foreign Filing License Granted: 06/13/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/768,896

Projected Publication Date: 03/17/2005

Non-Publication Request: No

Early Publication Request: No

Title

Illumination optical system and exposure apparatus

Preliminary Class

355

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

GRANTED

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

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

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

NOT GRANTED

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

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LAW OFFICES OF CHARLES L THOEMING
BIELE LAMPE & THOEMING PA
TWO CORPORATE CENTRE 1390 WILLOW PASS ROAD
SUITE 1020
CONCORD CA 94520

In re Application of	:	
Helen M. Scully	:	
Application No. 10/768,929	:	DECISION ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. 12263	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 2, 2008.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action, mailed September 17, 2007. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on March 20, 2008.

A review of the application file reveals the presence of an Amendment, filed on March 17, 2008. The Amendment was made timely with a three month extension of time, which Office records confirm was charged. Accordingly, it is concluded that the Notice of Abandonment was mailed in error.

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

The matter is being forwarded to Group Art Unit 3714 for consideration of the Amendment filed March 17, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Nalam Madhusudhana Rao :
Application No. 10/768,951 :
Filed: January 29, 2004 :
Attorney Docket No. 71914/JPW/KBC

NOTICE

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This matter is being forwarded to the Initial Patent Examination Unit.

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

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INTELLECTUAL PROPERTY DEPARTMENT
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

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DEC 0 2 2004

OFFICE OF PETITIONS

In re Application of
Daniel T. Johnson et al
Application No. 10/768,957
Filed: January 30, 2004
Attorney Docket No. 14602.01

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)
:

This is a decision on the petition filed July 21, 2004, which is being treated as both 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 **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

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

divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: **"This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated**. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., (August 2001), Section 201.11, Reference to First Application. The amendment filed July 21, 2004 does not state the relationship of the prior-filed applications to the instant application.

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and a substitute amendment[1] which sets forth the relationship of each of the prior-filed applications is required.

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

By mail: Mail Stop PETITIONS
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Post Office Box 1450
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By hand: Customer Window located at:
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Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Frances Hicks

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

---

[1] *Note* **37 CFR 1.121**

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MINNEAPOLIS, MN 55402-1498

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APR 1 1 2005

OFFICE OF PETITIONS

In re Application of	:
Daniel T. Johnson et al	:
Application No. 10/768,957	: DECISION ON PETITION
Filed: January 30, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 14602.01	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 11, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/988,779, filed June 18, 2001, as set forth in the Application Data Sheet (ADS) 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 above-noted, prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an ADS, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains an adequate statement of unintentional delay. Accordingly, having found that the 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 application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Petitioner is advised that the claim for priority appearing in the concurrently filed amendment to the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

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) 272-3218. 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 2857 for appropriate action and consideration of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/883,779 **appearing in the ADS filed February 11, 2005.**

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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

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OFFICE OF PETITIONS

In re Application of Colm V. Cryan, Richard Strack and Karim Tatah Application No. 10/768,966 Filed: January 30, 2004 For: GRADED INDEX FIBER ARRAY AND METHOD OF MANUFACTURE	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed November 15, 2004.

The petition is dismissed.

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

The above-identified application was filed on January 30, 2004 without an executed oath or declaration and naming Colm V. Cryan, Richard Strack and Karim Tatah as joint inventors.

Accordingly, on June 16, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and the filing fee, and a surcharge for their late filing.

In response, on October 19, 2004, the instant petition was filed.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been

presented with the application papers (specification, claims and drawings);

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

(3) the petition fee; and

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

Applicant lacks item (1), as set forth above.

Rule 47 applicant has failed to show that the inventor cannot be reached. Applicant has stated that a letter containing a Declaration for the application was mailed to the inventor, and that the packaged was returned. However, applicant has not submitted a statement of facts that describes any diligent efforts applicant has used to locate the inventor. Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, telephone directory searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions. See MPEP 409.03(d).

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3228.

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

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United States Patent and Trademark Office
P.O. Box 1450
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UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of Colm V. Cryan, Richard Strack and Karim Tatah Application No. 10/768,966 Filed: January 30, 2004 For: GRADED INDEX FIBER ARRAY AND METHOD OF MANUFACTURE	DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed February 2, 2005.

The petition is **granted**.

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

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

The file is being forwarded to Technology Center 2800 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3228.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 5 2006

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of	:
Keith V. Wood et al	:
Serial No.: 10/768,976	: PETITION DECISION
Filed: January 30, 2004	:
Attorney Docket No.: 341.020	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed November 28, 2006. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 25 2005

INNA SHTIVELBAND LANDSMAN
129 RAWSON RD
ARLINGTON MA 02474

In re Application of	:
Strivastava et al.	:
Serial No.: 10/768,996	: PETITION TO MAKE SPECIAL
Filed: January 30, 2004	:
Attorney Docket No.: CHMG-10	:

This is in response to applicants' petition filed March 7, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on inventions relating to Cancer. The $130.00 petition fee as required by 37 CFR 1.17(h) for each petition was received.

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 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SURESH C. SRIVASTAVA, PHD
CHEMGENES CORPORATION
33 INDUSTRIAL WAY
WILMINGTON, MA 01887

COPY MAILED

JUL 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Suresh C. Srivastava, et al.	:	
Application No. 10/768,996	:	DECISION ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 3, 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 29, 2005, 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 30, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future

correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The Power of Attorney filed with the petition on March 3, 2007 is not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. The statement under 37 CFR 3.73(b) does not include a copy of the assignment or the reel and frame number. Since the assignee only holds fifty percent of the entire interest a statement under 37 CFR 3.73(b) is also need from the individual (Kwok-Hung Sit) that hold the remaining fifty percent.

The notice of acceptance mailed on August 12, 2005 in reference to the power of attorney is hereby vacated as of the mail date of this decision.

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

This application is being referred to Technology Center AU 1642 for appropriate action by the Examiner in the normal course of business on the reply received March 3, 2007.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: INDU M. ANAND
15 GREEN WAY
CHELMSFORD, MA 01824

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Commissioner for Patents
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INDU M. ANAND
15 GREEN WAY
CHELMSFORD, MA 01824

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Suresh C. Srivastava, et al.	:	
Application No. 10/768,996	:	DECISION ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. ChG_001007	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2008, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 26, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 27, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

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

This application is being referred to Technology Center AU 1642 for appropriate action by the Examiner in the normal course of business on the reply previously filed September 26, 2008 and Supplemented September 30, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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APR 22 2010
OFFICE OF PETITIONS

In re Patent No. 7,089,639	:	
Issue Date: August 15, 2006	:	
Application No. 10/769,007	:	ON PETITION
Filed: January 29, 2004	:	
Attorney Docket No. 017242-011500US	:	

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 patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
www.uspto.gov

GEORGE C. LEWIS
3838 ANIMAS WAY
SUPERIOR CO 80027

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APR 27 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Lewis :
Application No. 10/769,020 :
Filed: January 29, 2004 :
Attorney Docket No. N/A :
For: TEST-CUTTING TARGET FOR
EDGED-WEAPONS PRACTICE

This is a decision on petition, filed January 8, 2007, requesting revival of the above-identified application.

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

Any reconsideration 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 "Petition under 37 CFR 1.137(a)." 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 corrected drawings in response to the Notice Regarding Drawings, mailed July 27, 2006, which set a non-extendable two month period for reply. Accordingly, the above-identified application became abandoned on September 28, 2006. A Notice of Abandonment was mailed on December 1, 2006.

Petitioner alleges that he did not receive the July 27, 2006 Notice and therefore, the delay in responding to it was unavoidable.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed.; (2) the petition fee as set forth in § 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 paragraph (c) of this section.

This petition does not satisfy requirements (1) and (3).

With respect to (1), petitioner has not submitted a complete reply to the July 27, 2006 Notice. Since petitioner states that he did not receive the July 27, 2006 Notice, a copy is enclosed. The copy of the July 27, 2006 Notice should enable petitioner to craft a proper reply.

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

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 July 27, 2006 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant 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 (1) applicant did not include a statement that a thorough and fruitless search of the file

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

jacket and docket records was conducted and (2) applicant did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Because petitioner is a *pro se* applicant, docketing practices such as those employed by registered practitioners may not be followed. Therefore, a somewhat modified approach to establishing non-receipt is reasonable.

Petitioner must state that the Office communication was not received and that he searched the place where he normally would keep such communications and couldn't find it. Petitioner must explain his system for keeping track of patent matters -- where he keeps the correspondence (Does petitioner have a file/ some means of organization where he keeps correspondence pertaining to this application?); where he writes down due dates (This need not be a log. This may be in the form of a calendar or a date book); how he knows replies are due; etc. In essence, Petitioner must explain how he reminds himself of response due dates and show that the due date for the non-final Office action was not entered into that system. The Office would like to see documentary evidence and records as may exist which would substantiate that Petitioner exercised due diligence with respect to his most important business.

ALTERNATIVE VENUE

If petitioner is unable to prove that he did not receive the July 27, 2006 Notice, petitioner should strongly consider filing a petition under 37 CFR 1.137(b).

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m) ($750.00); (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 require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A revival petition fee must be submitted with a revival petition, as the fee is a statutory requirement.

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.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: July 27, 2006 Notice Regarding Drawings and Notice of Draftsperson's Patent Review

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMES APPLICANT	ATTORNEY DOCKET NUMBER
10/769020	01/29/2004	LEWIS, GEORGE C.	1

GEORGE C. LEWIS
3838 ANIMAS WAY
SUPERIOR CO 80027

Examiner
GRAHAM, MARK

Art Unit
3711

Paper Number

Date Mailed: 07-27-06

Notice Regarding Drawings

Corrected drawings for the above-identified application, received in the USPTO on __01/29/2004__ are still not acceptable for the reason(s) identified on the attached PTO-948. Applicant is given one opportunity to correct the informalities within a two-month time period from the mailing date of this Notice. **THIS TIME PERIOD IS NOT EXTENDABLE UNDER EITHER 37 CFR 1.136(a) OR 1.136(b). Failure to take corrective action within the set period will result in abandonment of the application.**

ATTACHMENT: PTO-948 Notice of Draftsperson's Patent Review
Nhan Tang –703-305-0333 – Ext. 132

RETURN CORRECTED DRAWINGS TO:
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GEORGE C. LEWIS
3838 ANIMAS WAY
SUPERIOR CO 80027

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
Lewis :
Application No. 10/769,020 : ON PETITION
Filed: January 29, 2004 :
Attorney Docket No. N/A :
For: TEST-CUTTING TARGET FOR EDGED-WEAPONS PRACTICE

This is a decision on reconsideration petition, filed June 15, 2007, requesting revival of the above-identified application.

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

The above-identified application became abandoned for failure to timely submit corrected drawings in response to the Notice Regarding Drawings, mailed July 27, 2006, which set a non-extendable two month period for reply. Accordingly, the above-identified application became abandoned on September 28, 2006. A Notice of Abandonment was mailed on December 1, 2006.

Applicant has submitted a proper reply in the form of corrected formal drawings, an acceptable statement of the unintentional nature of the delay in responding to the July 27, 2006 Notice Regarding Drawings, and the petition fee. All requirements under 37 CFR 1.137(b) being met, the petition is granted.

This application is being forwarded to Publishing Division for consideration of the drawings filed on June 15, 2007.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Whittle et al.	:	DECISION ON
Application No. 10/769,021	:	PETITION
Filed: January 30, 2004	:	
Attorney Docket No. 5573-1151P7CT7	:	

This is a decision on the petition under 37 CFR 1.10(c), filed June 9, 2004, requesting that the above-identified application be accorded a filing date of January 30, 2004, instead of February 2, 2004.

The United States Patent and Trademark Office records indicate that the presently accorded filing date of the above-identified application is January 30, 2004. Therefore, the petition involves a moot issue.

Accordingly, the petition is dismissed.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/769,021	01/30/2004	1614	856	5573-115IP7CT7		20	4

CONFIRMATION NO. 9712

CORRECTED FILING RECEIPT

OC000000013108991

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

Date Mailed: 06/30/2004

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

Applicant(s)

Robert R. Whittle, Wilmington, NC;
Frederick D. Sancilio, Wilmington, NC;
Grayson Walker Stowell, Wilmington, NC;
Douglas John Jenkins, Wilmington, NC;
Linda B. Whittall, Wilmington, NC;

Domestic Priority data as claimed by applicant

This application is a CON of 10/434,259 05/08/2003 PAT 6,706,737
which is a CON of 10/189,659 07/03/2002 PAT 6,667,321
which is a CON of 10/057,659 01/25/2002 PAT 6,444,689
which is a CON of 09/645,145 08/24/2000 PAT 6,369,087
which is a CIP of 09/519,976 03/07/2000 PAT 6,262,085
which claims benefit of 60/150,878 08/26/1999

Foreign Applications

If Required, Foreign Filing License Granted: 04/30/2004

Projected Publication Date: 08/12/2004

Non-Publication Request: No

Early Publication Request: No

Title

Pharmaceutical formulations

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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TWO EMBARCADERO CENTER
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SAN FRANCISCO CA 94111-3834

MAIL

JUN 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: OSHIMA, et al.
Application No. 10/769,030
Filed: January 30, 2004
For: STORAGE DEVICE HAVING A CAPABILITY OF LEARNING ACCESS PATTERNS

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 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 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 May 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 1, 10, and 13 from the references are not in these claims. For example, these claims fail to specify "a storage device system or method that records data readout locations (i.e., a history) *in a cache memory for a disk device to thereby learn access patterns*" (emphasis added). Regarding the 3ware TwinStor Architecture reference, the discussion states that the reference fails to disclose or suggest essentially all of the limitations of independent claim 1. However, a statement that the entirety of independent claim 1 is not disclosed by the reference is not a sufficient detailed description.

Petition to Make Special **DISMISSED**.

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

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

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

ds

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TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

MAILED

DEC 1 5 2005

Technology Center 2100

In re Application of:
Satoshi OSHIMA et al
Application No. 10/769,030
Filed: January 30, 2004
For: STORAGE DEVICE HAVING A CAPABILITY OF LEARNING ACCESS PATTERNS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on August 01, 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 August 01, 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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Paper No. 082404

Robert R. Waters, Esq.
WATERS LAW OFFICE, PLLC
633 Seventh Street
Huntington, WV 25701

SEP 15 2004

In re Application of:
Leo L. Burrell
Serial No.: 10/769031
Filed: January 30, 2004
Attorney Docket No.: **151PA0102**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed January 30, 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 statement from Leo L. Burrell stating that the he is sixty-five (65) years of age or more. In addition, a copy of a birth certificate for Leo L. Burrell is included as evidence.

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 M. Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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AUG 2 2 2007

OFFICE OF PETITIONS

In re Application of	:	
KEAGY, Scott	:	
Application No. 10/769,035	:	DECISION ON PETITION
Filed: January 30, 2004	:	TO WITHDRAW
Attorney Docket No. **PA2690US**	:	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 9, 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 Robert D. Hayden 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 sole named inventor Scott Keagy at the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SCOTT KEAGY**
1962 CAPE HILDA PLACE
SAN JOSE, CA 95133

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COURTNEY STANIFORD & GREGORY LLP
10001 N. DE ANZA BLVD., SUITE 300
CUPERTINO CA 95014

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JUN 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Jeremy N. Sokolic et al	:	
Application No. 10/769,036	:	DECISION ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. CSHE.P012	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 15, 2010, 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 July 29, 2009, 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 3694 for appropriate action by the Examiner in the normal course of business on the reply received April 15, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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GRAYBEAL JACKSON HALEY LLP
Frederick A. Kaseburg
Suite 350
155 - 108th Avenue NE
Bellevue WA 98004-5901

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Ryan Peterson	:	
Application No. 10/769,042	:	ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No.:1766-1-5	:	

This is a decision on the "Petition Showing Evidence of Complete Filing" filed August 16, 2004. Petitioner has in effect requested that the "Notice of Omitted Item(s) in Nonprovisional Application" be withdrawn to the extent that it states that page 16 of the specification had been omitted.

The application was filed on January 30, 2004. However, on June 15, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in Nonprovisional Application" stating that the application had been accorded a filing date of January 30, 2004 and advising applicant page 16 of the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends 22 pages of specification were filed with the initial disclosure on January 30, 2004. However, Petitioner acknowledges an erroneously redlined version of the application which contained a hidden page break caused the page numbering to skip from page 15 to page 17. Thus the specification did not include a page 16 and the last page of the specification was numbered as page 23. Nonetheless petitioner contends no pages are missing from the application. In support, the petition is accompanied by a copy of applicant's return postcard which lists 22 pages of specification. The petition is further accompanied by a copy of the specification which contains page 16 due to a lack of a page break.

It is obvious from the petition that no pages of the specification were actually missing on January 30, 2004. However, the Notice of Omitted Item(s) in Nonprovisional Application mailed on June 15, 2004 was correct in stating that page 16 of the specification <u>appeared</u> to have been omitted. The pages of the

specification as submitted were misnumbered. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Accordingly, the petition must be **dismissed**.

Since the petition was not necessitated by any error on the part of the Office, the $130 petition fee will be charged to deposit account 07-1897.

The application will be processed and examined using the application papers filed on January 30, 2004. The copy of page 16 of the specification supplied with the present petition will not be used for processing or examination, but will be retained in the application file. A preliminary amendment renumbering the specification pages should be submitted prior to examination.

The application is being returned to the Office of Initial Patent Examination for further processing with a **filing date of January 30, 2004**, using the original 22 pages of specification.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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LOUIS J. HOFFMAN
14614 NORTH KIERLAND BOULEVARD, SUITE 300
SCOTTSDALE, AZ 85254

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SEP 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Rodolfo B. Manzone	:	
Application No. 10/769,055	:	ON PETITION
Filed: January 29, 2004	:	
Attorney Docket No. 55	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed January 19, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 20, 2006.

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

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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JAMES R. CYPHER
405 14TH STREET
SUITE 1607
OAKLAND CA 94612

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of
William F. Leek et al.
Application No. 10/769,058
Filed: January 30, 2004
Attorney Docket No.: SST 1382

ON PETITION

This is a decision on the petition filed December 7, 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 December 7, 2007 for failure to timely pay the issue fee on or before December 7, 2007. Accordingly, a Notice of Abandonment was mailed February 25, 2008, after the filing of the instant petition.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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FORT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Richard Carl Gossweiler III et al	:	
Application No. 10/769,062	:	
Filed: January 30, 2004	:	
Attorney Docket No. 200313004-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed June 15, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 16, 2004.

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

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

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

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

Mail Date: 04/20/2010

Applicant	: Samuel J. Easley	: DECISION ON REQUEST FOR
Patent Number	: 7577296	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/769,065	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1076** 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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CHARLOTTE NC 28280-4000

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MAR 18 2008

OFFICE OF PETITIONS

In re Application of
Edward C. Burgard et al. :
Application No. 10/769.071 :
Filed: January 30, 2004 :
Attorney Docket Number: **046562/273017** :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed January 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed June 14, 2007. A response was filed December 13, 2007 with a three month extension of time, but by Advisory Action of January 9, 2008, petitioner was advised that the response did not place the application in condition for allowance. The instant petition and this decision precede the mailing of the Notice of Abandonment.

A Request for Continued Examination (RCE), and fee, requesting that the prior filed amendment be considered as the submission required under 37 CFR 1.114 has been filed with the instant petition.

This matter is now being referred to Technology Center 1618 for processing the RCE filed January 18, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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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Chun-Pok Leung
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

MAILED
JUN 0 8 2006
TECHNOLOGY CENTER 2100

In re Application of:
Shuji FUJINO
Application No. 10/769,073
Filed: January 30, 2004
For: METHOD FOR ALLOCATING PROGRAMS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on 10 August 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 10 August 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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PO BOX 10395
CHICAGO IL 60610

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OCT 0 8 2004

OFFICE OF PETITIONS

In re Application of	:
Antonijevic et al.	:
Application No. 10/769,078	:DECISION GRANTING PETITION
Filed: 30 January, 2004	:
Attorney Docket No. 10541-1944	:

This is a decision on the petition filed on 16 September, 2004, requesting that the above-identified application be accorded a filing date of 30 January, 2004, instead of the presently accorded filing date of 31 January, 2004.

The petition is **GRANTED**.

Petitioner asserts that the application was deposited in Express Mail service on 30 January, 2004. Petitioner states that the "date-in" of "01-31-04" placed on the Express Mail Customer Label, however, was entered in error. In support of petitioner's contention that the application was deposited in Express Mail Post Office to Addressee Service on 30 January, 2004, petitioners have supplied a copy of a U.S. Postal Service Pickup Service Statement--Express Mail, Global Express Guaranteed, Priority Mail, or Parcel Post bearing, *inter alia*, Express Mail Label No. EV329457395US (the same Express Mail number found on the itemized application transmittal sheet accompanying the original application papers located in the official file). The USPS Service Statement also bears the signature of a USPS employee and a pickup date of "1/30/04". Additionally, petitioners have supplied an affidavit from Cliff Johnson, an employee of the USPS at the Ann Arbor, MI, post office serving counsel's office confirming his signature is on the aforementioned USPS Pickup Service Statement.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is 30 January, 2004.

In view of the above, the application is entitled to a filing date of 30 January, 2004.

The petition is granted.

The application is being returned to Office of Initial Patent Examination for reprocessing with a filing date of 30 January, 2004, not 31 January, 2004, and for issuance of a corrected Filing Receipt.

Telephone inquiries may be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/769,078	01/30/2004	3743	900	10541-1944	5	12	3

CONFIRMATION NO. 8889

UPDATED FILING RECEIPT

OC000000014114845

29074
VISTEON
C/O BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO, IL 60610

Date Mailed: 10/18/2004

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

Applicant(s)

Dragi Antonijevic, Koln, GERMANY;
Jorn Frohling, Koln, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number **29074**.

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 103 03 595.8-13 01/30/2003

If Required, Foreign Filing License Granted: 06/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/769,078

Projected Publication Date: 01/27/2005

Non-Publication Request: No

Early Publication Request: No

Title

Multi-channel heat exchanger and connection unit

Preliminary Class

165

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MORGAN & FINNEGAN TRANSITION TEAM
C/O LOCKE LORD BISSELL & LIDDELL
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

COPY MAILED
JUL 0 8 2009
OFFICE OF PETITIONS

In re Application of	:	
Stephen Lange Ranzini, et al.	:	
Application No. 10/769,084	:	DECISION ON PETITION
Filed: January 29, 2004	:	TO WITHDRAW
Attorney Docket No. 4573-4001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed May 7, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Morgan & Finnegan Transition Team C/O Locke Lord Bissell & Liddell does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Further the request cannot be approved because the reasons set forth in the request, 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 below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning this application should be directed to the Technology Center.

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

cc: Stephen Lange Ranzini
959 Maiden Lane
Ann Arbor, MI 48105

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MORGAN & FINNEGAN TRANSITION TEAM
C/O LOCKE LORD BISSELL & LIDDELL
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

COPY MAILED
FEB 17 2010

In re Application of	:	
Ranzini et al.	:	
Application No. 10/769,084	:	ON PETITION
Filed: January 29, 2004	:	
Attorney Docket No. 4573-4001	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 11, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 12, 2009.

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

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

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

Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The Power of Attorney and Statement under 3.73(b), filed on October 23, 2009, cannot be accepted since the statement under 3.73(b) does not specify that the assignee is of the entire right, title and interest and list the reel and frame of the current assignment as required by 37 CFR 3.73(b). A Statement under 37 CFR 3.73(b) is enclosed.

While the petition is not signed by an attorney of record in this patent application, the signature of Jeremy T. Thissell 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 the petitioner, however all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 3696 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: JEREMY T. THISSELL
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Enclosure: STATEMENT UNDER 3.73(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

PERCY IVAN WHITMORE
4638 EAST MOUNTAIN VISTA DRIVE
PHOENIX AZ 85048

MAILED

JUL 13 2010

OFFICE OF PETITIONS

In re Application of :
Whitmore :
Application No. 10/769,119 :
Filed: 30 January, 2004 :
Attorney Docket No. PW-001 :

DECISION

This is a decision on the papers considered as petition filed on 21 June, 2010, for revival of an application abandoned due to unavoidable delay pursuant to 37 C.F.R. §1.137(a).

NOTES:

The application went abandoned for failure to reply to a Requirement for Restriction, an oversight, Petitioner avers, as a result of severe illness.

Petitioner is asked to provide with any renewed petition a chronology of events—with supporting documentation—commencing with the due date of the reply (set forth below) until the filing of a grantable petition.

Petitioner is cautioned to redact personal information e.g., (medical record number(s), social security number, bank/card account numbers and the like) from documents submitted in support of the showing of unavoidable delay.

The petition pursuant to 37 C.F.R. §1.137(a) is **DISMISSED**.

As to Allegation of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioner does not appear to have satisfied the showing requirements (as to unavoidable delay) under the rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Requirement for Restriction mailed on 6 February, 2007, with reply due absent extension of time on or before 6 March, 2007.

The application went abandoned after midnight 6 March, 2007.

The Office mailed a Notice of Abandonment on 16 August, 2007.

On 21 June, 2010, Petitioner filed, *inter alia*, a petition with fee, averring unavoidable delay pursuant to 37 C.F.R. §1.137(a), with insufficient showing and a reply in the form of an Election. Petitioner's averment is that he was severely ill and could not reply. As indicated above, Petitioner is asked to provide with any renewed petition a chronology—with supporting documentation—commencing with the due date of the reply (set forth above) until the filing of a grantable petition.

Petitioner is cautioned to redact personal information (medical record number(s), social security number, bank/card account numbers and the like) from documents submitted in support of the showing of unavoidable delay.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

In the absence of documentary support for his averments Petitioner will not be able to satisfy the requirements of a petition averring unavoidable delay pursuant to 37 C.F.R. §1.137(a). Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) for the showing required pursuant to 37 C.F.R. §1.137(a), which provides in pertinent part:

***

> **...Unavoidable Delay**
>
> *As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 C.F.R..§137(a) ("unavoidable" delay) or 37 C.F.R. §1.137(b) ("unintentional" delay). See* Maldague, *10 USPQ2d at 1478.*

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* Pratt, *1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also* Winkler v. Ladd, *221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963),* aff'd, *143 USPQ 172 (D.C. Cir. 1963);* Ex parte Henrich, *1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."* Smith v. Mossinghoff, *671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."* Haines v. Quigg, *673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).*

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

> *(A)the error was the cause of the delay at issue;*
>
> *(B)there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and*
> *(C)the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.*

See In re Egbers, *6 USPQ2d 1869, 1872 (Comm'r Pat. 1988),* rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, *10 USPQ2d 1787 (D.D.C. 1988);* In re Katrapat, *6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, 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) an adequate showing of "unavoidable" delay will require a showing 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. The following do not constitute proper notification of a change in correspondence address:

> *(A)the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;*
>
> *(B)the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or*
>
> *(C)the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.*

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, *673 F. Supp. at 317, 5 USPQ2d at 1132;* Vincent v. Mossinghoff, *230 USPQ 621, 624 (D.D.C. 1985);* Smith v. Diamond, *209 USPQ 1091 (D.D.C. 1981);* Potter v. Dann, *201 USPQ 574 (D.D.C. 1978);* Ex parte Murray, *1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 C.F.R. 1.116 and 1.135(b) are manifest* that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 C.F.R. §1.8 or §1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 C.F.R. §1.8 and §1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).

35 U.S.C. §133 and §151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990).

The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the peti-

tion is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 C.F.R. §1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).
An applicant who fails to file a petition under 37 C.F.R. §1.137(a) "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the application will not be able to show 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(a) was unavoidable. The removal of the language in 37 C.F.R. §1.137(a) requiring that any petition thereunder be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should **not** be viewed as: (A) permitting an applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under 37 C.F.R. §1.137(a); or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under 37 C.F.R. §1.137(a) was denied due to the applicant's deliberate deferral in filing a petition under 37 C.F.R. § 1.137. An applicant who deliberately chooses to delay the filing of a petition under 37 C.F.R. §1.137 (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show 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(a)] was unavoidable" or even make an appropriate 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."

The dismissal or denial of a petition under 37 C.F.R. §1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 C.F.R. 1. §137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 C.F.R. 1.137(a) indicates otherwise). In such an instance, a petition under 37 C.F.R. 1.137(b) may be filed accompanied by the fee set forth in 37 C.F.R. §1.17(m), the required reply, 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 any terminal disclaimer required by 37 C.F.R. §1.137(c).
Form PTO/SB/61 or PTO/SB/61PCT may be used to file a petition for revival of an unavoidably abandoned 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]

[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).

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.

STATUTES, REGULATIONS

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

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.[2]

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(I) and/or (II).

As to Allegations of Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of ununavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As of this writing Petitioner has failed to provide the required support under the regulations for the allegation of unavoidable delay.

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[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(a) is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the proper reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and a terminal disclaimer and fee where appropriate. (The statement is in the form available online.)

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLE/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 04/21/2010

Applicant	: Jeff Moore	: DECISION ON REQUEST FOR
Patent Number	: 7669113	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/769,139	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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 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

DATE : 4-26-10 Paper No.: _____

TO SPE OF : ART UNIT 2176

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/769,139 Patent No. 7,669,113

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

FOR IFW FILES: Please Review Case

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ennis Young LTE
Randolph Sq. Ste 9D62A
703-756-1542

Thank You For Your Assistance

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

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

DOUG HUTTON
SUPERVISORY PATENT EXAMINER

SPE _____ ART UNIT 2176

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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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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OFFICE OF PETITIONS

In re Application of :
Miguel A. Sepulveda :
Application No. 10/769,154 :
Filed: January 29, 2004 :
Attorney Docket No. 23564-07864 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 14, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on December 20, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen 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 August 4, 2005 accompanies this decision on petition.

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

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

Attachment: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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EDWIN A. SISSON, MANAGER OF INTELLECTUAL PROPERTY
M&G POLYMERS USA, LLC
6951 RIDGE ROAD
PO BOX 590
SHARON CENTER, OH 44274-0590

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JUN 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Edwin A. Sisson, et al.	:	
Application No. 10/769,167	:	DECISION GRANTING PETITION
Filed: January 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MGP.P.US0081	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 21, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 17, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1794 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement

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

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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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Hiroshi Kakii	: DECISION ON REQUEST FOR
Patent Number	: 7583848	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/769,191	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1193** 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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RENATO SMITH
P.O. BOX 1135
CHICAGO, IL 60690-1135

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OFFICE OF PETITIONS

In re Application of
Uwe Rademacher
Application No. 10/769,200
Filed: January 29, 2004
Attorney Docket No. 113378-070

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed November 2, 2007 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 22, 2005 for failure to timely reply to the final Office Action mailed June 21, 2005, which set a three month period for response. Accordingly, a Notice of Abandonment was mailed January 13, 2006.

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

This matter is being referred to Technology Center 3632 for processing of the RCE.

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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[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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Mailed : 2-22-08

In re Application of
Curt Thies
Serial No. 10/769,210
Filed: January 30, 2004
For: BEADING

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed August 29, 2006 and made final in the office action mailed May 2, 2007.

Applicants filed an appeal brief on June 21, 2006, appealing the final rejection of claims 1-14. In an office action mailed August 29, 2006, the examiner re-opened prosecution and required restriction between six groups of inventions. Restriction had not been required previously. Applicants traversed the restriction requirement in a response February 15, 2007. The examiner repeated the restriction requirement in an office action mailed May 2, 2007 and made the restriction requirement final. Claims 3-8 and 11-14 were withdrawn from consideration as being drawn to a non-elected invention.

On July 25, 2007, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Petitioner argues that the restriction as maintained is improper because continued examination of all the claims could be made without serious burden.

DECISION

Section 803 of the MPEP states:

803 Restriction — When Proper
Under the statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 802.01, § 806.06, and § 808.01) or distinct (MPEP § 806.05 - § 806.05(j)).

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they

include claims to independent or distinct inventions.

In making the restriction final, the examiner states that the claims as amended require a burdensome search and concludes that restriction between the inventions is proper.

Petitioner argues that there is no serious burden on the examiner to search all of the claims in the application. This argument is persuasive. The examiner has not established that any serious burden exists to examine all of the claims. The lack of a burden is evidenced by the fact that the examiner has previously examined all of the claims. Therefore, the restriction requirement is improper and should be withdrawn.

Accordingly, the restriction requirement is found to be improper and the petition to withdraw the restriction requirement is **GRANTED**. The application is being forwarded to the examiner in order to rejoin non-elected claims and issue a new and complete non-final office action.

Jacqueline M. Stone

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

FISH & RICHARDSON PC
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MINNEAPOLIS MN 55440-1022

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JOHN M. CARD
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Koebe, et al.	:	DECISION DISMISSING
Application No. 10/769,215	:	PETITION
Filed: January 31, 2004	:	
Attorney Docket No. 10543-074	:	

This is a decision on the petition under 37 CFR §1.10(d), filed June 10, 2004, requesting that the above-identified application be accorded a filing date of January 30, 2004, rather than the presently accorded filing date of January 31, 2004.

The petition is **dismissed**.

Applicants request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service (Express Mail mailing label #EV329459312US) on January 30, 2004, pursuant to the requirements of 37 CFR §1.10. However, applicant states the Express Mail mailing label identified in the original application papers indicates an erroneous "date-in" of January 31, 2004. Applicants allege that the date of mailing indicated by the Express Mail mailing label is a U.S. Postal Service (USPS) error and the correct date of mailing is January 30, 2004.

Petitioner contends, "This Express Mail envelope, along with several other Express Mail envelopes, were picked up at the Law offices of the undersigned on January 30, 2004 by an employee of the United States Postal Service. Written confirmation of this pickup is evidenced by the attached United States Postal Service Pickup Service Statement (enclosed as Attachment B), which clearly bears the signature of the United States Postal Service employee and the pickup date of January 30, 2004. Postal employees picking up Express Mail at our offices are not permitted by the USPS to fill out the Express Mail Receipt, but are permitted to sign a pickup Log.

Upon receipt of the filled in Express Mail Receipt it was noted that the date had been filled in incorrectly as January 31, 2004. A copy of the filled in customer copy of the Express Mail Label, showing the incorrect date in as January 31, 2004, is provided as Attachment C. It is this date that is entered as the filing date on the Official Filing Receipt."

In support, the petition is accompanied by a copy of the application as filed, an unexecuted combined Declaration and Power of Attorney, a copy of a return receipt postcard dated 01/31/04, a copy of a check made out to the United States Patent and Trademark Office for $770.00 and dated 1/30/04, an Information Disclosure Statement with PTO Form 1449 and a declaration by Terry Wand.

Paragraph (a) of 37 CFR §1.10 states that:

> "Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. <u>The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation</u>. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a)."
> (Emphasis supplied).

Paragraph (d) of 37 CFR §1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in §10.1(r) of this chapter. (Emphasis supplied)

A grantable petition under 37 CFR §1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed June 10, 2004, is not accompanied by the corroborating evidence required by the rule. Though petitioner states a copy of the Express Mail label and a copy of a United States Postal Service Pickup Service Statement has been submitted, neither item can be located in the application file.

As such, at the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration.

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

The application is being returned to Technology Center 2800 for examination *in due course,* with the presently accorded filing date of January 31, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

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

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DEMONT & BREYER, LLC
100 COMMONS WAY, Ste. 250
HOLMDEL, NJ 07733

Mail Date: 04/20/2010

Applicant	: Ilya Feygin	: DECISION ON REQUEST FOR
Patent Number	: 7579194	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/769,220	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1539** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Gary L. Graunke :
Application No. 10/769,253 : ON PETITION
Filed: January 30, 2004 :
Attorney Docket No. 42P17840 :

This is a decision on the petition filed October 30, 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 June 20, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 21, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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: Michael R. Barre
Intel Corporation
1701 Intervail Dr., MS: AN1PTL1
Austin, TX 78746

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: _____

DATE : December 19, 2006

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/769257 Patent No.: 6,958,629 B2

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

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

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

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

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

Comments: Reference numbers in Figs. 2 & 3 (212, 250, 250, 266, 268, 330, 392) should remain in Figures.

Rexford Barnie — **SPE**

2819 — **Art Unit**

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DANIEL DEJOSEPH
F.L. SMIDTH INC.
2040 AVENUE C
BETHLEHEM, PA 18017-2188

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OCT 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Waldo Marcelo Valderrama Reyes et al	:	
Application No. 10/769,269	:	ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. US-1391-FFEM	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 10, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 11, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of February 10, 2005 is accepted as having been unintentionally delay.

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

This matter is being referred to Technology Center AU 2856.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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AVAGO TECHNOLOGIES, LTD.
P.O. BOX 1920
DENVER, CO 80201-1920

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Robert T. Martin	:	
Application No. 10/769,270	:	
Filed: January 30, 2004	:	
Atty Docket No.:	:	
70040162-1	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed July 20, 2006.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed April 19, 2006. The Notice set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 20, 2006.

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

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Maria A. Trevisan
Wolf, Greenfield & Sacks,
P.C.
600 Atlantic Avenue
Boston MA 02210

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In re Application of	:	
Krieg, et al.	:	
Application No. 10/769,282	:	ON APPLICATION FOR
Filed: January 30, 2004	:	PATENT TERM ADJUSTMENT
Docket No. C1039.70048US01	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705, filed December 1, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is seven hundred eighty (780) days, not three hundred and five (305) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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[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).

---

[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.

Applicants filed a Petition to Correct Inventorship under 37 CFR 1.48 on December 1, 2009. This application is being referred to Technology Center 1645 for consideration of the Rule 48 petition. Thereafter, the Office of Data Management will be advised of this decision and this application will be referred to the Office of Data Management Office 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

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Alexandria, VA 22313-1450
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DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103

COPY MAILED
SEP 12 2005
OFFICE OF PETITIONS

In re Application of	:	
Sanjay Sarma, et al.	:	
Application No. 10/769,292	:	ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. 1974-P03607US1	:	

This is a decision on the petition under 37 CFR 1.137(b) filed June 20, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed June 17, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 18, 2004.

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

This application matter is being forwarded to the Office of Initial Patent Examination 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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DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

Mail Date: 04/21/2010

Applicant	: Sanjay Sarma	: DECISION ON REQUEST FOR
Patent Number	: 7621447	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/769,292	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **557** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 25 2007

OFFICE OF PETITIONS

In re Application of :
Scot R. Weinberger, et al :
Application No. 10/769,293 :
Filed: January 29, 2004 :
Attorney Docket No. 026693-009110US :

NOTICE

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)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Irvin Dingle
Petitions Examiner

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.
10/769,320	01/30/2004	Luc Mainville	31,622-01US	7384

32300 7590 02/03/2010
BRIGGS AND MORGAN P.A.
2200 IDS CENTER
80 SOUTH 8TH ST
MINNEAPOLIS, MN 55402

EXAMINER
CHIN, RANDALL E

ART UNIT	PAPER NUMBER
3723	

MAIL DATE	DELIVERY MODE
02/03/2010	PAPER

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

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

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BRIGGS AND MORGAN P.A.
2200 IDS CENTER
80 SOUTH 8TH ST
MINNEAPOLIS MN 55402

In re Application of: MAINVILLE, LUC	)	
Application No. 10/769,320	)	
Attorney Docket No. 31,622-01US	)	**DECISION ON PETITION UNDER 37**
Filed: January 30, 2004	)	**CFR §1.91**
For: CLEANING ASSEMBLY FOR A	)	
SHAFT	)	
	)	

This is a decision on the petition filed December 16, 2009 under 37 CFR § 1.91 requesting the admission and consideration of video files which have been submitted to the Office on video discs (DVDs). The petitioner has submitted these files as secondary evidence of non-obviousness to rebut the examiner's *prima facie* finding of obviousness in the non-final Office action mailed December 4, 2008 and final Office action of August 13, 2009. Petitioner has also submitted a fee for $130.00.

Background

Examiner's non-final and final Office actions contain a prior art rejection. In response to these communications, applicant has submitted Rule 116 amendment along with attorney's arguments, affidavits and video files that are identified as containing "the exhibit is a video of tests performed using an assembly as described and claimed in the present application on the one hand, and an assembly as currently available on the market on the other hand, under the trademark Gladiator ™, comprising a stainless steel blade and nitrocarburized tubular members." Petitioner also asserted that different contaminants were used and indent test performed.

Decision

While the petitioner has addressed this request as a petition under 37 CFR § 1.91, it actually is one part of a submission under 37 CFR § 1.132, *Affidavits or declarations traversing rejections or objections*. The guidelines set forth in Manual for Patent Examining Procedure (MPEP) 716.01 (b) state there must be some evidence that the evidence is relevant to the subject matter as claimed and "the examiner must determine whether there is a nexus between the merits of the claimed invention and the evidence of secondary considerations. *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 305 n.42, 227 USPQ 657, 673-674 n. 42 (Fed. Cir.

1985), *cert. denied*, 475 U.S. 1017 (1986)." There must be a "legally sufficient connection between the objective evidence of nonobviousness and the claimed invention so that the evidence is of probative value in the determination of nonobviousness. *Demaco Corp. v. F. Von Langsdorff Licensing Ltd.*, 851 F.2d 1387, 7 USPQ2d 1222 (Fed. Cir.), *cert. denied*, 488 U.S. 956 (1988)." (Emphasis added.)

As the petitioner has noted, the submitted video files are a video of tests performed using an assembly as described and claimed in the present application. From these statements, it appears the submissions are opinion formed by person(s) who may have some potential interest in the outcome of the case. Petitioner has not established the submitted video constitutes sworn legal testimony nor have they established the qualifications of the person(s) performed the tests are either experts or ones skilled in the art. Therefore, it appears the DVDs contain opinions, but not opinion evidence as defined in MPEP § 716.01(c) (III).

If petitioners were to establish the DVD content as being opinion evidence, the submission must comply with 37 CFR § 1.91, *Models or exhibits not generally admitted as part of application or patent*. This rules, reads in pertinent part as follows:

> (a) A model or exhibit will not be admitted as part of the record of an application unless it:
> ****
> (3) Is filed with a petition under this section including:
> (i) The fee set forth in § 1.17(h); and
> (ii) An explanation of why entry of the model or exhibit in the file record is necessary to demonstrate patentability.

Conclusion

As petitioner has failed to meet the requirements set forth above regarding the filing of the DVDs, the petition is **dismissed**. The examiner will be instructed to disregard the content of DVD filed on December 16, 2009. The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3723 for further examination and consideration of the Rule 116 amendment filed on December 16, 2009.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED

Donald T. Hajec, Director
Technology Center 3700

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SULLIVAN & WORCESTER LLP
1666 K STREET NW
WASHINGTON DC 20006

MAILED

JUN 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Kurt BUSINGER	:	
Application No. 10/769,368	:	DECISION ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. 21204.0182US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 19, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 20, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,620.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 19, 2009, 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). Since the $1,110.00 extension of time fee submitted with the petition on April 22, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 3714 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 02, 2008

TO SPE OF : ART UNIT 2861

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/769372 Patent No.: 7303245 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: The request for certificate of correction filed on 01/10/08 has been approved.

Thanks.

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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
10/769,373	01/30/2004	2851	1340	1232-5269	15	23	9

CONFIRMATION NO. 7890

CORRECTED FILING RECEIPT

OC000000014317854

27123
MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

Date Mailed: 11/09/2004

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

Applicant(s)

Toshihiko Tsuji, Tochigi, JAPAN;

Power of Attorney:

Joseph Calvaruso--28287

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2003-324639 09/17/2003

If Required, Foreign Filing License Granted: 06/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/769,373

Projected Publication Date: 03/17/2005

Non-Publication Request: No

Early Publication Request: No

Title

Illumination optical system and exposure apparatus

Preliminary Class

355

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

GRANTED

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

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

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

NOT GRANTED

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/769,374	01/30/2004	2873	900	1232-5270	15	5	1

CONFIRMATION NO. 7922

CORRECTED FILING RECEIPT

OC000000014050551

27123
MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

Date Mailed: 10/12/2004

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

Applicant(s)

Masato Minami, Atsugi-shi, JAPAN;

Power of Attorney: The patent practitioners associated with Customer Number **27123**.

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2003-024295 01/31/2003

If Required, Foreign Filing License Granted: 06/14/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/769,374

Projected Publication Date: 01/20/2005

Non-Publication Request: No

Early Publication Request: No

Title

Electrophoretic Display

Preliminary Class

359

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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April 22, 2009

Jocelyn D. Ram
Kenyon and Kenyon LLP
1500 K Street, N.W.
Suite 700
Washington, DC 20005

Patent No.: 7,306,677 B2
Application No.: 10/769,397
Inventor(s): Todd Robida
Issued: December 11, 2007
Title: **CLAMPING FIXTURE FOR COATING STENTS, SYSTEM USING THE FIXTURE, AND METHOD OF USING THE FIXTURE**

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) 756-1591

vt

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

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JUN 0 5 2009

OFFICE OF PETITIONS

In re Patent No. 7,306,677	:	
Issue Date: December 11, 2007	:	
Application No. 10/769,397	:	ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. 12013/50901	:	

This is a decision on the petition filed May 8, 2009, under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

Serial No. 10/769,397
Docket No. 12013-50901

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.	:	7,306,677 B2	
Serial No.	:	10/769,397	
Applicant	:	Robida	Confirmation No. 8211
Filed:	:	January 30, 2004	
Art Unit	:	1734	
Title:	:	CLAMPING FIXTURE FOR COATING STENTS, SYSTEM USING THE FIXTURE, AND METHOD OF USING THE FIXTURE	
Examiner	:	Brenda Lamb	

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

06/05/2009 CKHLOK 00000001 110600 7306677
01 FC:1464 130.00 DA
02 FC:1811 100.00 DA

REQUEST FOR CORRECTION OF ASSIGNEE UNDER C.F.R. § 3.81(b)

SIR:

In accordance with 37 C.F.R. 3.81(b), Applicants respectfully request that U.S. Patent No. 7,306,677 be corrected to reflect that the assignee is Boston Scientific Scimed Inc. Applicants hereby state that the failure to include the correct assignee name on the Fee Transmittal Form PTOL-85B form was inadvertent. Applicants submit herewith:

1. A copy of a Request for a Certificate of Correction (which was previously submitted on April 15, 2009), the fee for which has already been charged to the Deposit Account No. 11-0600.

2. A copy of the Notice of Recordation of Assignment Document dated August 23, 2006.

Adjustment Date: 06/05/2009 CKHLOK
05/08/2009 INTEFSW 00007826 110600 10769397
01 FC:1808 130.00 CR

3. The processing fee of $130 as set forth in 37 C.F.R. 1.17(i).

Adjustment date: 06/05/2009 CKHLOK
04/15/2009 INTEFSW 00006536 110600 10769397
01 FC:1811 100.00 CR

The Assignment was submitted as set forth in 37 C.F.R. 3.11 before issuance of the patent on December 11, 2007 as follows:

Assignment 1: Assignment of Assignors Interest from Todd Robida to Scimed Life Systems, Inc. (Reel 014952/Frame 0981), recorded on January 30, 2004.

Assignment 2: Change of Name from Scimed Life Systems, Inc. to Boston Scientific Scimed, Inc. (Reel 018159/Frame 0602), recorded on August 7, 2006.

Assignment 3: Change of Name from Scimed Life Systems, Inc. to Boston Scientific Scimed, Inc. (Reel 018505/ Frame 0868), recorded on November 6, 2006.

Applicant hereby requests that the file be forwarded to the Certificate of Correction Branch, for issuance of a Certificate of Correction, if this Request under 37 CFR 3.81(b) is granted.

The Commissioner is hereby authorized to charge the prescribed fee of $130.00 to the deposit account of Kenyon & Kenyon LLP, deposit account number 11-0600. The Commissioner is also authorized to charge any additional fees or credit any overpayment in connection with this paper to Deposit Account No. 11-0600. It is noted the prescribed fee for the Request for Certificate of Correction in the amount of $100.00 was submitted on April 15, 2009 and has already been charged to Deposit Account No. 11-0600.

Respectfully submitted,

KENYON & KENYON LLP

Date: May 8, 2009

/Jocelyn D. Ram/
Jocelyn D. Ram
Reg. No. 54,898

KENYON AND KENYON LLP
1500 K Street, N.W., Suite 700
Washington, D.C. 20005
(202) 220-4200
(202) 220-4201 (Fax)

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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BLAKELY SOKOLOFF TAYLOR
& ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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AUG 1 8 2008
OFFICE OF PETITIONS

In re Application of

Eric C. Hannah :

Application No. 10/769,418

: DECISION ON PETITION

Filed: January 30, 2004

:

Attorney Docket No. 42P3294CRC

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2008, 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 Notice of Non-Compliant Amendment mailed November 23, 2007, which set a shortened period for reply of one (1) month 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 December 24, 2007.

The amendment filed July 22, 2008, is noted.

The application is being forwarded to Technology Center 2600, GAU 2622 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

In re Application of :
Douglas Rowitch et al :
Application No. 10/769,420 : ON PETITION
Filed: January 30, 2004 :
Attorney Docket No. 030186U1

This is a decision on the petition, filed November 20, 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 November 9, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FEB 21 2006

OFFICE OF PETITIONS

QUALCOMM, INC
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

In re Application of :
Sheynblat : DECISION ON PETITION
Application No. 10/769,421 :
Filed: January 30, 2004 :
Docket No.: 000740CIPD1 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed January 26, 2006.

The petition is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned July 28, 2005 for failure to timely submit a proper reply to the Notice of Allowability ("Notice") mailed April 27, 2005. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed October 19, 2005.

Petitioner argues that a response to the Office Action was mailed to the USPTO on July 14, 2005 and has provided a copy of a return postcard dated stamped July 19, 2005 by the USPTO acknowledging receipt of an issue fee transmittal.

Petitioner is advised that while the issue fee was timely submitted, new formal drawings, as required by the Notice were not. Accordingly, the instant application became abandoned for failure to timely submit new formal drawings as required by the Notice. As the copy of the return postcard does not reference the enclosure of new formal drawings, petitioners have failed to establish that a proper response to the Notice was timely submitted.

Any renewed petition must established that new formal drawings were timely submitted on or before July 27, 2005, as required by the Notice.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay in timely submitting a properly reply to the Notice was unintentional or unavoidable pursuant to 37 CFR 1.137(b) and (a) respectively. *See* MPEP 711.03(c).

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

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

By facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM, INC
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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JUN 0 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Sheynblat	:	DECISION ON PETITION
Application No. 10/769,421	:	
Filed: January 30, 2004	:	
Docket No.: 000740CIPD1	:	

This decision is in response to the petition renewed under 37 CFR 1.137(b) filed April 25, 2006.

The petition is hereby **DISMISSED**.

This application became abandoned July 28, 2005 for failure to timely submit a proper reply to the Notice of Allowability ("Notice") mailed April 27, 2005. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed October 19, 2005. A petition under 37 CFR 1.181 was filed January 26, 2006 and dismissed February 21, 2006.

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

The instant petition is not accompanied by the required petition fee. Authorization to charge the required petition fee is not given in the petition as submitted. As submission of petition fee is a prerequisite for treatment on the merits of any petition submitted under 37 CFR 1.137(b), the petition is subject to dismissal.

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

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

By facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of : DECISION ON PETITION
Sheynblat, et al. :
Application No. 10/769,421 :
Filed: January 30, 2004 :
Docket No.: 000740CIPD1 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 5, 2006, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned July 28, 2005 for failure to timely submit a proper reply to the Notice of Allowability ("Notice") mailed April 27, 2005. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed October 19, 2005.

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

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

This application will be forwarded to the Publications Division 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

Form PTO-948 (Rev. 06/03)
Application No. 10/769421

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 7/5/06 are:

A. ☒ approved by the Draftsperson under 37 CFR 1.84 or 1.152.

B. _____ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. Corrected drawings are required.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: Black ink or Color (3 sets required).

___ Color drawings are not acceptable until petition is granted. Fig(s)_____

___ Pencil and non black ink not permitted. Fig(s)____

2. PHOTOGRAPHS. 37 CFR 1.84(b)

___ One (1) full-tone set is required. Fig(s)_____

___ Photographs may not be mounted. 37 CFR 1.84(e)

___ Photographs must meet paper size requirements of 37 CFR 1.84(f). Fig(s)_____

___ Poor quality (half-tone). Fig(s)_____

3. TYPE OF PAPER. 37 CFR 1.84(e)

___ Paper not flexible, strong, white, and durable. Fig(s)_____

___ Erasures, alterations, overwritings, interlineations, folds, copy machine marks not accepted. Fig(s)_____

4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:
21.0 cm by 29.7 cm (DIN size A4) or
21.6 cm by 27.9 cm (8 1/2x 11 inches)

___ All drawing sheets not the same size. Sheet(s)_____

___ Drawings sheets not an acceptable size. Fig(s)____

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:
Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

___ Margins not acceptable. Fig(s)_____

_____Top (T) _____ Left (L)

_____Right (R) _____ Bottom (B)

6. VIEWS. 37 CFR 1.84(h)
REMINDER: Specification may require revision to correspond to drawing changes, e.g., if Fig. 1 is changed to Fig. 1A, Fig 1B and Fig. 1C, etc., the specification, at the Brief Description of the Drawings, must likewise be changed.

___Views not labeled separately or properly. Fig(s)_____

7. SECTIONAL VIEWS. 37 CFR 1.84(h)(3)

____ Sectional designation should be noted with Arabic or Roman numbers. Fig(s)_____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

___ Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s)_____

9. SCALE. 37 CFR 1.84(k)

___ Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s)_____

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)

___ Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s)_____

11. SHADING. 37 CFR 1.84(m)

___ Solid black areas pale. Fig(s) _____

___ Solid black shading not permitted. Fig(s)_____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)

___ Numbers and reference characters not plain and legible. Fig(s)_____

___ Figure legends are poor. Fig(s)_____

___ Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1) Fig(s)_____

___ English alphabet not used. 37 CFR 1.84(p)(2) Fig(s)_____

___ Numbers, letters and reference characters must be at least 32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3). Fig(s)_____

13. LEAD LINES. 37 CFR 1.84(q)

___ Lead lines missing. Fig(s)_____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)

___ Sheets not numbered consecutively, and in Arabic numbers beginning with number 1. Sheet(s)_____

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)

___ Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s)_____

16. DESIGN DRAWINGS. 37 CFR 1.152

___ Surface shading shown not appropriate. Fig(s)_____

___ Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Fig(s)_____

COMMENTS:

Reviewer _____

If you have questions, call (703) 305-8404.

Date 9/26/06

Attachment to Paper No. _____

☆ U.S. GOVERNMENT PRINTING OFFICE: 2003-300-153

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

Mail Date: 04/21/2010

Applicant	: Anand Srinivasan	: DECISION ON REQUEST FOR
Patent Number	: 7642204	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/769,430	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: 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.

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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PIONEER HI-BRED INTERNATIONAL, INC.
7100 NW 62ND AVE DARWIN BLDG
PO BOX 1000
JOHNSTON IA 50131

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NOV 29 2005
OFFICE OF PETITIONS

Applicant: Noble
Appl. No.: 10/769,432
Filing Date: January 30, 2004
U.S. Patent No.: 6,933,427
Issue Date: August 23, 2005
Title: HYBRID MAIZE 33N09
Attorney Docket No.: P06653US00-1845
Pub. No.: US 2004/0172722 A1
Pub. Date: September 2, 2004

This is in response to the "Request for A Corrected Or Revised Patent Application Publication under 37 CFR 1.221(b)," which was received on November 2, 2004, for the above-identified application.

The request is DISMISSED as moot.

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]

Since the application has already issued as U.S. Patent No. 6,933,427 on August 23, 2005, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[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).

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JJGJr: 07-04

Paper No: __

MYERS BIGEL
SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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JUL 0 9 2004
OFFICE OF PETITIONS

In re Application of :
Hariharan, et al. :
Application No. 10/769,435 : DECISION ON PETITION
Filed: 30 January, 2004 :
Attorney Docket No.: 5577-283 :

This is a decision on the petition filed on 21 May, 2004, to correct the Express Mail filing date under 37 C.F.R. §1.10, and seeking for the above-identified application a filing date of 30 January, 2004, instead of the presently accorded filing date of 2 February, 2004.

The petition is **GRANTED**, and the petition fee is waived.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received on 2 February, 2004, and given a filing date of 2 February, 2004; and

- Petitioner D. Scott Moore (Reg. No. 42,011) submits his petition and statement, and supplements his pleadings with a copy of the US Postal Service (USPS) Express Mail Label No. EV353594613US, which number also appears on the second page of the two-page application transmittal;

- while that USPS Express Mail label contains no hand-written "date in," it does contains a USPS date stamp of "JAN 30 2004";

- and a companion USPS "Track & Confirm" Shipment Details evidences "ACCEPTANCE, January 30 , 2004, 5:50 p.m., Raleigh, NC 27612."

CONCLUSION

Therefore, as to the instant nonprovisional application, Application No. 10/769,435, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 30 January, 2004; and
- issue a filing receipt specifying the filing date as that of 30 January, 2004.

The instant application is released to OIPE to be handled as set forth above before being forwarded for examination in due course.

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

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

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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FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI & BIANCO, P.
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI, FL 33180

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NOV 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Rudi, Bertocchi	:	
Application No. 10/769,436	:	ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. 7044-X06-033	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 24, 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) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 11

OIPE JC180
NOV 15 2004
PATENT & TRADEMARK OFFICE

MICHAEL J. GROSS
SHOOK, HARDY & BACON L.L.P.
1200 Main Street
Kansas City MO 64105-2118

COPY MAILED

JUL 25 2002

OFFICE OF PETITIONS

In re Application of:
David Horne
Application No. 09/999,734
Filed: October 24, 2001
Title of Invention: PLASTIC RECYCLING SYSTEM AND PROCESS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(b)

This is a decision on the Declaration, filed July 17, 2002, Which is being treated as a Renewed Petition under 37 CFR 1.47(b), to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application for patent on behalf of and as agent for the inventor.

The petition is **granted**.

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

Petitioner has demonstrated that the non-signing inventor refuses to sign the application. Specifically, Petitioner established that the nonsigning inventor, David Horne, refuses to sign the declaration after being presented with a copy of the above-identified application and declaration.

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

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

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

Derek L. Woods
Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

JUL 30 2002

GAPR70027

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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OIPE JC130
NOV 15 2004
PATENT & TRADEMARK OFFICE

Mr. David Horne
Unit 2
South Staples Street
Prospect 5082
South Australia

COPY MAILED

JUL 25 2002

OFFICE OF PETITIONS

In re Application of:
David Horne
Application No. 09/999,734
Filed: October 24, 2001
Title of Invention: PLASTIC RECYCLING SYSTEM AND PROCESS

LETTER

Dear Mr. Horne:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be

JUL 30 2002

directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: MICHAEL J. GROSS
SHOOK, HARDY & BACON L.L.P.
1200 Main Street
Kansas City MO 64105-2118

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.: 01-05

Paper No: __

AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

COPY MAILED

JAN 2 7 2005

OFFICE OF PETITIONS

In re Application of
Horne :
Application No. 10/769,439 : ON PETITION
Filed: 30 January, 2004 :
Attorney Docket No. 784-90-1 :

This is in response to the petition under 37 C.F.R. §1.47(b) filed on15 November, 2004.

The petition is **GRANTED**.[1]

In accordance with 37 C.F.R. §1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 09/999,734, filed on 24 October, 2001, of which the instant filing is a continuation application. Furthermore, petitioner has submitted a copy of the decision, mailed on 25 July, 2002, granting a petition to accord § 1.47 status to the prior application.

The above-identified application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-

[1] The commentary at MPEP §201.06(c) provides in pertinent part:

* * *

New continuation or divisional applications filed under 37 C.F.R.§ 1.53(b) which contain a copy of an oath or declaration that is not signed by one of the inventors and a copy of the decision according 37 C.F.R. §1.47 status in the prior application, should be forwarded by the Office of Initial Patent Examination (OIPE) to the Office of Petitions before being forwarded to the Technology Center (TC). The Office of Petitions will mail applicant a letter stating that "Rule 47" status has been accorded to the continuation or divisional application, but will not repeat the notice to the nonsigning
inventor nor the announcement in the *Official Gazette*. See 37 C.F.R. §1.47(c).

* * *

signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

Petitioner's deposit account, No. 50-0951, will be charged the $130.00 fee required by law for consideration of this Petition under 37 C.F.R. §1.47 as previously authorized.

This application is released to OIPE for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 01-05

Paper No: __

DAVID HORNE
4 ROBERT STREET
BLAIR ATHOL
PROSPECT 5082
ADELAIDE
AUSTRALIA

COPY MAILED

JAN 2 7 2005

OFFICE OF PETITIONS

In re Application of
Horne :
Application No. 10/769,439 : ON PETITION
Filed: 30 January, 2004 :
Attorney Docket No. 784-90-1 :

Dear Brian Keith Walker:

You are named as inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47, ¶a, Rules of Practice in Patent Cases.

Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application.

Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this correspondence may be directed to the undersigned at (571) 272-3214.

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

Counsel of Record:
AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

Pet. Dec.

IFW

OIPE JC24
OCT 18 2004
PATENT & TRADEMARK OFFICE

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

10/769442

Approved

JMStone

Jacqueline M. Stone, Director
Technology Center 1700

2/11/05

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

The practitioners associated with Customer No. 22442 (Sheridan Ross P.C.) who have either express or implied power of attorney do hereby apply to withdraw as attorney or agent for the patents and patent applications identified on Attachment A.

The reasons for this request are:

The assignee, Magicolor Graphics 2000, Inc., has instructed practitioners to perform no further services regarding the applications and U.S. Patents identified on Attachment A herewith.

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

CORRESPONDENCE ADDRESS

☐ Customer Number _____ Place Customer Number Bar Code Label Here

OR

☒ Firm or Individual Name	Tom Fernandez				
Address	1295 S. Santa Fe Drive				
Address					
City	Denver	State	Colorado	Zip	80223
Country	U.S.A.				
Telephone					

☒ 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 papers(s), or
- ☒ the attorneys/agents associated with Customer Number 22442

This request is enclosed in triplicate (including any attachments).

Name	Dennis J. Dupray
Signature	
Date	Oct. 13, 2004

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.

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

Pet. Dec.

OIPE JC24
OCT 18 2004
PATENT & TRADEMARK OFFICE

ATTACHMENT A

Application No./ Patent No.	Filing Date Issue Date	Title
10/769,442	January 30, 2004	"Method and Apparatus for Lenticular Printing"
10/103,549	March 20, 2002	"Method and Apparatus for Lenticular Printing"
5,517,776	May 21, 1996	"Laminated Product and Process for Making the Same"
5,351,425	October 4, 1994	"Display Device and Processes for Making and Using the Same"

J:\2735\Withdraw as Attorney or Agent-ATTACHMENT A.wpd

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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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CHAPIN INTELLECTUAL PROPERTY LAW, L.L.C.
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH, MA 01581

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AUG 0 8 2008

In re Application of	:	
Benveniste et al.	:	
Application No. 10/769,448	:	DECISION ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. AVA04-09	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office action of May 29, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 30, 2007. A Notice of Abandonment was mailed December 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

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

Applicant: Somani et al.
Appl. No.: 10/769,456
Filing Date: January 30, 2004
Title: LOCATION INFORMATION RECOVERY AND MANAGEMENT FOR MOBILE NETWORKS
Attorney Docket No.: 08411-011002/ISURF 0258-D1
Pub. No.: US 2004/0185871 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 16, 2004 for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, as "k_1" is misprinted as "k," in the first instance in the phrase "for storing information about a first group of items in k_1 of the database servers and for sorting information about a second group of items in k_2 of the database servers, wherein $k_1 > k_2$, a method of querying the database servers for information about a given item, the method comprising:" in line 3 of the preamble of claim 48.

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 "k_1" is misprinted as "k," in the first instance in the phrase "for storing information about a first group of items in k_1 of the database servers and for sorting information abut a second group of items in k_2 of the database servers, wherein $k_1 > k_2$, a method of querying the database servers for information about a given item, the method comprising:" is an Office error, but the mistake is a minor typographical error, which is clearly understandable to one of ordinary skill in reading the specification and the claims. The mistake is a minor typographical error, which is clearly understandable from reading the claims in which the phrase is used, as terms are not read in a vacuum. The mistake does not affect the public's ability to

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct 10, 2000) (final rule).

appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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 error in this published application may be due in part to the poor quality of the text in the application. While the text is legible, the text is not clear, as the text of the subscript numeral "1" is very small and appears incomplete. Furthermore, other text in the application is also not clear, as some of the letters, numerals and symbols are very small and incomplete. Applicant is advised that he or she may want to file application papers that are clearer, as the error may be due to the quality of the text.

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

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,113,795 :
Issue Date: September 26, 2006 :
Application No. 10/769,456 :
Filed: January 30, 2004 :
Attorney Docket No. 08411-011002 :

This is a decision on the petition filed April 10, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The petition fee under 37 CFR 1.17(i) of $130 is charged to petitioner's deposit account no. 06-1050 as authorized by Stephen Schaefer in the initial certificate of corrections request filed February 28, 2007.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

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

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United States Patent and Trademark Office
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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

Mail Date: 04/20/2010

Applicant	: Rhett L. Affleck	: DECISION ON REQUEST FOR
Patent Number	: 7596251	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/769,462	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1552** 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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OCT 24 2006
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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of	:	
Mark G. Erlander et al.	:	
Application No. 10/769,476	:	DECISION ON PETITION
Filed: January 30, 2004	:	TO WITHDRAW
Attorney Docket No. 022041-001210US	:	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 21, 2006.

The request is **APPROVED**.

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

The request was signed by Kawai Lau on behalf of all attorneys of record who are associated with Customer No. 20350.

All attorneys/agents associated with the Customer No. 20350 have been withdrawn.

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

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

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 Bucel
Petitions Examiner
Office of Petitions

cc: **Mark G. Erlander**
442 Hillcrest Drive
Encinitas, CA 92024

cc: **Fish & Richardson**
225 Franklin Street, Suite 3100
Boston, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/769,476	01/30/2004	Mark G. Erlander	022041-001210US

CONFIRMATION NO. 6336

OC000000020867312

OC000000020867312

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 10/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/21/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DEC 01 2005

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

In re Application of	:	
Robert L. Diaz	:	
Serial No.: 10/769,478	:	DECISION ON PETITION
Filed: January 23, 2004	:	
For: Method and Apparatus for	:	
Bi-Compartmental Partial Knee Replacement:		

This is in response to applicants' petition filed October 19, 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Reiter et al.	:	
Application No. 10/769,479	:	DECISION DISMISSING PETITIONS
Filed: 01/29/2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 02307K-141521US	:	

This is a decision on the petition filed on December 19, 2006, which is treated as a petition filed 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 priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

With regard to item (1), the supplemental ADS filed with the present petition is improper because it is not signed. 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, a supplemental ADS filed after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Reiter et al.	:	
Application Number: 10/769,479	:	DECISION DISMISSING PETITION
Filing or 371(c) Date: 01/29/2004	:	UNDER 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket Number: 02307K-141521US	:	

This is a decision on the renewed 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 priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed supplemental Application Data Sheet (ADS).

The petition is again **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

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).

Petitioners should review the claim for priority to ensure that a reference is made to the first application and to every intermediate application. In this regard, while Application No. 09/359,326 contains a claim for the benefit of prior-filed provisional Application Nos. 60/124,658, 60/120,536, and 60/113,230, which was made on filing, no proper claim for the benefit of the prior-filed above-referenced provisional applications was made in Application No. 09/564,329, which is a continuation-in-part of Application No. 09/359,326, or Application No. 10/225,784, which is a division of Application No. 09/564,329.

In this regard, Application Nos. 09/564,329 and 10/225,784 do not state that Application No. 09/359,326 claims the benefit of the above referenced provisional applications. Rather, the specifications of Application Nos. 09/564,329 and 10/225,784 as filed simply state that Application Nos. 09/564,329 and 10/225,784, respectively, claim the benefit of the prior-filed provisional applications listed above.

Before the petition under 37 CFR 1.78(a)(3) and (a)(6) can be granted in the present application, petitioner must file a grantable petition under 37 CFR 1.78(a)(6) in Application Nos. 10/225,784, accompanied by either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and in compliance with 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) to correct the claims of benefit to the prior filed provisional applications.

Additionally, a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and in compliance with 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) to correct the claims of benefit to the prior filed provisional applications must be filed in Application No. 09/564,329. As Application No. 09/564,329 was filed on May 3, 2000, which is prior to November 29, 2000, however, no petition under 37 CFR 1.78(a)(6) is required to be filed in Application No. 09/564,329.

Upon the grant of the petition filed in 37 CFR 1.78(a)(6) in Application No. 10/225,784, and the correction of the claim of benefit in Application No. 09/564,329, petitioner may filed a renewed petition under 37 CFR 1.78(a)(3) and (a)(6) in the present application.

Finally, applicant should not refer to Application No. 08/814,279 since it has been converted to provisional Application No. 60/228,816, and thus is not a valid application number.

The duplicate petition fee submitted with the present renewed petition is unnecessary and will be credited to counsel's deposit account, as authorized in the present renewed petition.
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED
SEP 15 2008

In re Application of	:
Reiter et al.	:
Application No. 10/769479	: DECISION ON PETITIONS
Filed: 01/29/2004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 02307K-141521US	:

This is a decision on the twice renewed petition, styled under 37 CFR § 1.78(a)(3) and filed on July 9, 2008, which is treated as petitions under 37 CFR §§ 1.78(a) 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 supplemental Application Data Sheet (ADS).

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1642 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
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
10/769,479	01/29/2004	1642	550	02307K-141521US	11	1

CONFIRMATION NO. 8613

CORRECTED FILING RECEIPT

OC000000031887240

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 09/15/2008

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

Applicant(s)

Robert E. Reiter, Los Angeles, CA;
Owen N. Witte, Sherman Oaks, CA;

Assignment For Published Patent Application

The Regents of the University of California, Oakland, CA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 10/225,784 08/21/2002
which is a DIV of 09/564,329 05/03/2000 PAT 6,541,212
which is a CIP of 09/359,326 07/20/1999 ABN
which is a CIP of 09/318,503 05/25/1999 PAT 6,261,791
which is a CIP of 09/251,835 02/17/1999 PAT 6,261,789
which is a CIP of 09/203,939 12/02/1998 PAT 6,258,939
which is a CIP of 09/038,261 03/10/1998 PAT 6,267,960
which claims benefit of 60/228,816 03/10/1997 ABN
and claims benefit of 60/071,141 01/12/1998
and claims benefit of 60/074,675 02/13/1998
and said 09/359,326 07/20/1999
claims benefit of 60/113,230 12/21/1998
and claims benefit of 60/120,536 02/17/1999
and claims benefit of 60/124,658 03/16/1999

Foreign Applications

If Required, Foreign Filing License Granted: 06/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/769,479**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

PSCA antibodies and hybridomas producing them

Preliminary Class

424

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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OCT 27 2009

OFFICE OF PETITIONS

In re Application of
Robert E. Reitter, et al.
Application No. 10/769,479
Filed: January 29, 2004
Attorney Docket No. 02307K-141521US

ON PETITION

This is a decision in response to the petition, filed July 23, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed January 9, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 10, 2009. A Notice of Abandonment was mailed on July 20, 2009. In response, on July 23, 2009, the present petition was filed.

The petition is not signed by a registered attorney of agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Frank J. Mycroft 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 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 $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 1642 for appropriate action by the Examiner in the normal course of business on the response received July 23, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

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TECHNOLOGY CENTER 2100

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In re Application of: SUGIURA, et al.
Application No. 10/769,482
Filed: January 30, 2004
For: DATA CENTER SYSTEM AND METHOD FOR 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 January 24, 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 January 24, 2005 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). Specifically, 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. It is noted that the independent claims 8, 11 and 18 differ in scope from the discussion presented in the petition with respect to independent claim 1, specifically regarding the remote copy methods as recited in claim 8, and the step of referencing information about an order of operating priorities as recited in claims 11 and 18.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

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

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

4/1/05

SDL: 03/21/05

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SAN FRANCISCO, CA 94111-3834

In re Application of: SUGIURA, et al.
Application No. 10/769,482
Filed: January 30, 2004
For: DATA CENTER SYSTEM AND METHOD FOR 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 April 25, 2005, to make the above-identified application special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, originally filed on January 24, 2005 and dismissed on April 4, 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 the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

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

SDL: 05/17/05

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

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APR 2 0 2007

OFFICE OF PETITIONS

In re Application of :
Imada, et al. :
Application No. 10/769,488 :
Filed: January 29, 2004 :
Attorney Docket No. 5187/DBP/A400 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10(d) first filed on March 5, 2007.

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.10".

The instant petition was filed to correct what petitioner believed was an incorrect filing date accorded the above-cited application. Petitioner maintains that the correct filing date for the application should be January 30, 2004, not the currently accorded date of January 29, 2004. In support thereof, petitioner filed an a copy of Express Mail label, tracking number EV351235493US with the date-in as January 29, 2004. Petitioner maintains that "date-in" should have been January 30, 2004.

Section 1.10(d) of the Title 37 of the Code of Federal Regulations indicates if a showing is made that the "date-in" on the Express Mail label was incorrectly entered or omitted by the United States Postal Service, a petition to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the United States Postal Service, provided that:

> (1) the petition is filed promptly after the person becomes aware that the Office has accorded or will accord a filing date based upon an incorrect entry by the USPS;
>
> (2) the number on the Express Mail mailing label was placed on a paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express Mail; and
>
> (3) the petition includes a showing which established, to the satisfaction of the Commissioner, 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. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within

one business day of the deposit of the correspondence in the "Express Mail Post office to Addressee" service of the USPS.

The instant petition does not satisfy the requirements of items (1) and (3) above.

As to item (1), petitioner has not explained why the petition to correct filing date was filed more than three years after the application was accorded a filing date. A successful petition under37 CFR 1.10(d) requires that the petition be filed promptly after petitioner becomes aware that the application has been accorded an incorrect filing date. The renewed petition must explain when petitioner discovered the alleged filing date error and how soon thereafter the petition to correct the filing date was filed.

As to item (3), Section 513 of the *Manual of Patent Examining Procedure*, provides in pertinent part, that:

> The showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail." Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Evidence that came into being within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.
>
> The reason the Office considers correspondence to have been filed as of the date of deposit as "Express Mail" is that this date has been verified by a disinterested USPS employee, through the insertion of a "date-in," or other official USPS notation, on the "Express Mail" mailing label. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from the USPS, or by evidence that came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail."
>
> A petition alleging that the USPS erred in entering the "date-in" will be denied if it is supported only by evidence (other than from the USPS) which was:
>
> (A) created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence); or
>
> (B) created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as "Express Mail").
>
> On the other hand, a notation in a log book, entered after deposit by the person who deposited the correspondence as "Express Mail" within one business day of such deposit, setting forth the items indicated above, would be deemed on petition to be an adequate showing of the date of deposit under 37 CFR 1.10(d)(3).

Relative to item (3) above, petitioner's docket entry corroborating the mailing of the subject application was not found with instant petition. The docket entry is material to satisfying item (3) above. The undersigned must be able to review the docket entry to determine if it is of any probative value in light of the *MPEP* § 513 cited above. The copy of the relevant docket entry must accompany any renewed petition filed.

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

By mail: Mail Stop Petitions
Commissioner for Patents
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 at (571) 272-3222

Kenya A. McLaughlin
Petitions Examiner
Office of Petitions

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JUN 11 2007

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

In re Application of	:	
Imada, et al.	:	
Application No. 10/769,488	:	DECISION GRANTING PETITION
Filed: January 29, 2004	:	
Attorney Docket No. 5187/DBP/A400	:	

This is a decision on the renewed petition filed May 14, 2007, under 37 CFR 1.10(d) requesting that the above-cited application be accorded a filing date of January 30, 2004. This petition will also be treated as petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.10(d).

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

The petition under 37 CFR 1.10(d) is **granted.**

TREATEMENT UNDER 37 CFR 1.183

A petition under 37 CFR 1.10(d) was first filed on March 5, 2007, and dismissed by a decision mailed April 20, 2007. The petition was dismissed because petitioner did not explain why the petition was filed more than three-years after the alleged erroneous filing date was accorded. The petition was also dismissed because petitioner did not provide evidence from the United States Postal Service or that came into being after deposit and within one day of the date the application was mailed that would corroborate petitioner's claim that the application was deposited on January 30, 2004. The renewed petition was not persuasive as to the aforementioned. Notwithstanding, in the interest of justice, the relevant requirements of 37 CFR 1.10(d) will be waived pursuant to 37 CFR 1.183, so that the petition under 37 CFR 1.10(d) granted. Deposit account 03-1728 will be charged $400.00 for the petition fee.

TREATMENT UNDER 37 CFR 1.10(d)

Petitioner alleges that the application was deposited with the United States Postal Service, Express Mail Service on January 30, 2004, but that the United Postal Service entered the "date-in" incorrectly as January 29, 2004. It is noted that the requirements of 37 CFR 1.10(d)(1) and (3) are being waived pursuant to 37 CFR 1.183. The evidence is, otherwise, convincing that the application papers were deposited with the United States Postal Service Express Mail Service on January 30, 2004.

In view of the above, the petition is granted. The new filing date for the above-cited application is January 30, 2004

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 20, 2004, and for issuance of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-32223.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

11/12/08

In re Application of:
ROE, DONALD CARROLL et al
Serial No.: 10/769,493
Filed: Jan. 19, 2004
Docket: 5494CRD3
Title: ARTICLE HAVING A LOTIONED TOPSHEET

DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed Oct. 24, 2008 to review the restriction requirement mailed on Nov. 28, 2007. The petition is being considered pursuant to 37 CFR 1.181 and CFR 1.144 and no fee is required for the petition.

The petition is **GRANTED**.

In the petition, petitioner requests the examiner to withdraw the restriction requirement mailed on Nov. 28, 2007. In particular, petitioner requests that the election of species requirement be withdrawn regarding claims 39-44. Petitioner further argues that claims themselves are never species. Since the Office action has not specified what the species are being restricted, the restriction is improper. Petitioner also opines that the examiner has already conducted a search and examination of claim 1, there cannot be a serious burden to search and examine the subject matter recited in dependent claims 39-44 which ultimately depend from generic claim 1.

In finding petitioner's points of argument persuasive, the requested relief is granted. The election of species requirement regarding claims 39-44 mailed on Nov. 28, 2007 is withdrawn. Dependent claims 39-44 will be rejoined with the elected invention. The examiner has been directed to issue an Office action to rejoin and treat dependent claims 39-44 on the merits when considering the latest amendment filed on Oct. 24, 2008.

The application is being forwarded to the Supervisory Patent Examiner for further consideration of amendment filed on Oct. 24, 2008. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Robert Olszewski, Director
Technology Center 3700

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

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JUN 20 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
Jacek Stachurski
Application No. 10/769,500
Filed: January 30, 2004
Attorney Docket No. TI-35417

This is a decision on the petition under 37 CFR 1.137(b)[1], filed May 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed November 2, 2007. A response was filed January 2, 2008, but by Advisory Action of February 6, 2008, petitioner was advised that the response did not place the application in condition for allowance. The instant petition and this decision precede the mailing of the Notice of Abandonment.

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

This matter is being referred to Technology Center 2626 for processing of the RCE.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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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Alexandria, VA 22313-1450
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MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

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JUN 21 2005

OFFICE OF PETITIONS

Applicant: Garcia
Appl. No.: 10/769,506
Filing Date: January 30, 2004
Title: HYBRID MAIZE 38W21
Attorney Docket No.: P06636US00-1838
Pub. No.: US 2004/0194171 A1
Pub. Date: September 30, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on November 2, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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HEWLETT PACKARD COMPANY
P O BOX 272400
3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:
John M. Koegler III, et al	:
Application No. 10/769,511	: DECISION GRANTING PETITION
Filed: January 30, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 200401531-1	:

This is a decision on the petition, filed October 27, 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 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2875 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement, both of which were filed on August 22, 2005.

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).*

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3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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NOV 07 2005

OFFICE OF PETITIONS

In re Application of :
John M. Koegler III, et al :
Application No. 10/769,511 : DECISION GRANTING PETITION
Filed: January 30, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 200401531-1 :

This is a decision on the petition, filed October 27, 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 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2875 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement, both of which were filed on August 22, 2005.

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).*

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ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

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JUN 21 2005

OFFICE OF PETITIONS

Applicant: Russell
Appl. No.: 10/769,513
Filing Date: January 30, 2004
Title: HYBRID MAIZE 33V62
Attorney Docket No.: P06645US00-1848
Pub. No.: US 2004/0172724 A1
Pub. Date: September 2,, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on November 2, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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PIONEER HI-BRED INTERNATIONAL, INC.
7250 NW 62ND AVENUE
PO BOX 552
JOHNSTON IA 50131-0552

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OFFICE OF PETITIONS

Applicant: Benson
Appl. No.: 10/769,517
Filing Date: January 30, 2004
U.S. Patent No.: 6,936,756
Issue Date: August 30, 2005
Title: HYBRID MAIZE 32Y22
Attorney Docket No.: P07021US00
Pub. No.: US 2004/0172725 A1
Pub. Date: September 2, 2004

This is in response to the "Request for Corrected or Revised Patent Application Publication under 37 CFR 1.221(b)," which was received on November 2, 2004, for the above-identified application.

The request is DISMISSED as moot.

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]

Since the application has already issued as U.S. Patent No. 6,936,756 on August 30, 2005, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[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).

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Nguyen & Associates
16168 Blossom Hill Road
Los Gates, CA 95032

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OFFICE OF PETITIONS

In re Application of	:	
Ram PRABHAKAR, et al.	:	
Application No. 10/769,520	:	DECISION ON PETITION
Filed: January 30, 2004	:	TO WITHDRAW
Attorney Docket No. NVDA-016	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because there is no clear indication if attorney Frank Nguyen is acting on behalf of himself and all other attorneys associated with customer number 35577.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Anthony Murabito
Wagner Murabito & Hao
Two North Market Street, Third Floor
San Jose, CA 95113

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Stephen B. Salai, Esq.
Harter, Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester NY 14604-2711

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OFFICE OF PETITIONS

In re Application of :
Ilday, et al. : DECISION ON PETITION
Application No. 10/769,523 :
Filed: January 30, 2004 :
Docket No.: 21821.000062 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 23, 2006.

This application was held abandoned for failure to timely submit a proper reply to the Office communication mailed February 28, 2006. Notice of Abandonment was mailed August 10, 2006.

Petitioners assert that the Notice of Abandonment was prematurely mailed.

The Office communication mailed February 28, 2006 set a one month shortened period of time for reply. However, the period of time for reply was extendible upon grantable petition to August 28, 2006.

Petitioners' arguments have been carefully considered and found convincing. In view of the arguments submitted, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The petition for extension of time pursuant to 37 CR 1.136 is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

There is no indication that practitioner herein was ever empowered to prosecute the instant application. If practitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to practitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: JONES, TULLAR & COOPER, P.C.
P.O. BOX 2266, EADS STATION
ARLINGTON, VA 22202

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Mark D. Barrish
Townsend and Townsend and Crew
379 Lytton Ave
Palo Alto, CA 94301

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JUN 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert G. Whirley, et al.	:	
Application No. 10/769,532	:	DECISION ON PETITION
Filed: January 30, 2004	:	TO WITHDRAW
Attorney Docket No. 021630-004500US	:	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** as moot.

A review of the file record indicates that the power of attorney to Mark D. Barrish has been revoked by the assignee of the patent application on January 23, 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 Cheryl Gibson-Baylor at 571-272- 3213.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee: H

cc: Daniel Scola
Hoffmann & Baron, LLP
1055 Parsippany Boulevard
Parsippany, NJ 07054

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6900 JERICHO TURNPIKE
SYOSSET NY 11791

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Whirley et al.	:	
Application No. 10/769,532	:	ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. 760-251	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 6, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $450.00 extension of time fee submitted with the petition on October 6, 2006, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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IN RE: 28533
BRINKS, HOFFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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AUG 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Di Qu et al	:	
Application No. 10/769,556	:	ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. 3086/1399 (BH2104)	:	

This is a decision on the petition, filed August 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 22, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1615 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
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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IN RE: 28533
BRINKS HOFFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

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AUG 13 2008

OFFICE OF PETITIONS

In re Application	:	
Qu, et al.	:	
Application No. 10/769,556	:	DECISION ON APPLICATION
Filed: January 30, 2004	:	FOR PATENT TERM ADJUSTMENT
Docket No. 3086/1399 (BH 2104)	:	

This is a decision on the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed May 6, 2008. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected.

The application for 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 **two hundred forty-four (244) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 7, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was four hundred thirty-eight (438) days.

The Office initially determined a patent term adjustment of four hundred thirty-eight (438) days based on an adjustment for PTO

delay of two hundred seventy-five (275) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and one hundred sixty-three (163) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by zero (0) days of applicant delay.

A review of the record reveals that Applicants should have been assessed additional period of delay pursuant to 37 C.F.R. 1.704(c)(10). 37 C.F.R. §1.704(c)(10) states that an applicant will have failed to engage in reasonable efforts to conclude processing or examination of an application due to:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months.

The Office mailed a Notice of Allowance on December 30, 2005. Applicants filed a Rule 312 Amendment on February 15, 2006. More than 4 months after the filing of the Amendment, but prior to an Office action being mailed in response, on August 18, 2006, applicants filed a Request for Continued Examination, an IDS, and a petition to withdraw from issue. In response, the Office mailed an action on October 30, 2006. Accordingly, one hundred twenty (120) days should have been assessed for the Rule 312 Amendment and seventy-four (74) days of applicant delay should have been assessed for the RCE and IDS filing.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred forty-four (244) days** (438 days of PTO delay, reduced by 194 (120+74) days of applicant delay).

No fee has been charged. The Office thanks Applicant for his good faith and candor in bringing this matter to the Office's attention.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Day : Tuesday
Date: 8/12/2008

PALM INTRANET

Time: 18:39:55

PTA Calculations for Application: 10/769556			
Application Filing Date:	01/30/2004	PTO Delay (PTO):	438
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	244
PTO Delay Adjustment:	-194		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
76	08/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		74	
75	08/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		120	
66	02/07/2008	MAIL CORRECTED NOTICE OF ALLOWANCE			
65	02/05/2008	CORRECTED NOTICE OF ALLOWANCE			
64	09/26/2007	EXPORT TO INITIAL DATA CAPTURE			
63	09/21/2007	MAIL NOTICE OF ALLOWANCE			
62	09/21/2007	MAIL FORMAL DRAWINGS REQUIRED	163		55
61	03/09/2007	AMENDMENT CROSSED IN MAIL			
60	03/17/2007	ISSUE REVISION COMPLETED			
59	03/17/2007	FORMAL DRAWINGS REQUIRED			
58	03/17/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
57	03/17/2007	NOTICE OF ALLOWABILITY			
56	12/28/2006	DATE FORWARDED TO EXAMINER			
55	12/11/2006	RESPONSE AFTER NON-FINAL ACTION			
54	10/30/2006	MAIL NON-FINAL REJECTION			
53	10/27/2006	NON-FINAL REJECTION			
51	10/23/2006	CASE DOCKETED TO EXAMINER IN GAU			
50	10/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
49	08/18/2006	REFERENCE CAPTURE ON IDS			
47	08/31/2006	DATE FORWARDED TO EXAMINER			
46	08/18/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
45	08/31/2006	DATE FORWARDED TO EXAMINER			
44	08/18/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
		DISPOSAL FOR A RCE/CPA/129 (EXPRESS			

43	08/31/2006	ABANDONMENT IF CPA)			
42	08/18/2006	WORKFLOW - DRAWINGS FINISHED			
41	08/18/2006	WORKFLOW - DRAWINGS FINISHED			
40	08/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
39	08/25/2006	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
38	08/18/2006	PETITION ENTERED			
37	08/18/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
36	02/15/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
35	06/28/2006	RECEIPT INTO PUBS			
34	06/23/2006	FINISHED INITIAL DATA CAPTURE			
33	06/05/2006	RECEIPT INTO PUBS			
32	06/01/2006	WORKFLOW - QUERY REQUEST - FINISH			
31	05/02/2006	RECEIPT INTO PUBS			
30	03/28/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
29	03/27/2006	CORRESPONDENCE ADDRESS CHANGE			
28	03/22/2006	ISSUE FEE PAYMENT VERIFIED			
27	03/22/2006	ISSUE FEE PAYMENT RECEIVED			
26	01/09/2006	EXPORT TO INITIAL DATA CAPTURE			
25	01/11/2006	RECEIPT INTO PUBS			
24	12/30/2005	MAIL NOTICE OF ALLOWANCE	275		-1
23	12/27/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
22	12/19/2005	ISSUE REVISION COMPLETED			
21	12/12/2005	NOTICE OF ALLOWABILITY			
20	07/12/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	11/27/2004	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
18	10/13/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	10/13/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	07/12/2004	REFERENCE CAPTURE ON IDS			
15.7	07/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	07/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/30/2004	MISCELLANEOUS INCOMING LETTER			

13	08/20/2004	APPLICATION RETURN FROM OIPE			
12	08/20/2004	APPLICATION RETURN TO OIPE			
11	08/20/2004	APPLICATION DISPATCHED FROM OIPE			
10	08/20/2004	APPLICATION IS NOW COMPLETE			
9	07/27/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
8	07/27/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	07/27/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
6	06/16/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	01/30/2004	PGPUBS NONPUB REQUEST			
4	03/14/2004	CLEARED BY OIPE CSR			
3	03/14/2004	CASE CLASSIFIED BY OIPE			
2	02/09/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/30/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: Roy Lim	: DECISION ON REQUEST FOR
Patent Number	: 7597694	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/769,569	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **862** 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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MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

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JUN 14 2005

OFFICE OF PETITIONS

Applicant: Henry
Appl. No.: 10/769,593
Filing Date: January 30, 2004
Title: HYBRID MAIZE 32B10
Attorney Docket No.: P0664US00 - 1847
Pub. No.: US 2004/0172728 A1
Pub. Date: September 2, 2004

This is in response to the request for a corrected patent application publication under 37 CFR 1.221(b), which was filed on November 2, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains several mistakes as the phrase "ATCC Accession Nos. as ____ and ____ respectively," is misprinted as "ATCC Accession Nos. ____ as ____ and respectively," in claims 11 and 16.

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 wherein the phrase "ATCC Accession Nos. as ____ and ____ respectively," is misprinted as "ATCC Accession Nos. ____ as ____ and respectively," in claims 11 and 16 are Office errors, but the mistakes are minor typographical errors, which are clearly

[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).

understandable to one of ordinary skill in reading the specification and the claims. The mistakes are minor typographical errors which are clearly understandable from reading the claims in which the phrase is used, as terms are not read in a vacuum and there are two spaces for the accession numbers. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-872-9306

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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NuTool, Inc
Legal Department
1655 McCandless Drive
Milpitas CA 95035

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AUG 2 5 2004
OFFICE OF PETITIONS

In re Application of	:	
Uzoh et al.	:	NOTICE
Application No. 10/769,605	:	
Filed: January 30, 2004	:	
Attorney Docket No. NT-290-US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed August 16, 2004.

37 CFR 1.28(c) states: "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 application will undergo further processing in the Office of Patent Examination.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MUSERLIAN, LUCAS AND MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bhatt et al. :
Application No. 10/769,609 :
Filed: January 30, 2004 :
Attorney Docket No. 285.073 :

This is a decision on in response to the paper filed July 27., 2004, which is being treated as a petition requesting, in effect, that pages 34, 36, and 38 of the specification filed on July 27, 2004, be entered as part of the original disclosure.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application was filed on January 30, 2004. On July 23, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of January 30, 2004, and advising applicants that pages 34, 36, and 38 appeared to have been omitted.

In response, the present petition was filed. Petitioner alleges pages 34, 36, and 38 were filed with the original application.

All the evidence present in the file has been carefully considered, but is not persuasive that pages 34, 36, and 38 of the specification were submitted with the original application.

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt ....

While petitioner apparently believes that the pages were filed on January 30, 2004, the file of application No. 10/769,609[1] shows that the pages were not received, since no such papers are present in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced

[1] The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of their customary and usual duties.

has the burden of proving the allegation by a preponderance of the evidence. In this regard, the papers contained in petitioner's file do not have more probative value than the official government record of what was actual received in the USPTO on January 30, 2004.

Petitioner has only demonstrated an intent to file the missing pages and has not established that the pages were actually filed. Unfortunately, patent applicants and their representatives, who intend to file complete applications, occasionally file applications which are missing one or more pages, due to clerical error, a copying machine error (such as papers sticking together), papers falling out of a file, or another reason. A demonstration of an intent to included a page or pages does not establish the actual receipt of such pages by the Office.

It is for the reasons above that the USPTO has established a practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice, which was has been in existence for many years and is well publicized, requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Since applicants have not filed a petition under 37 CFR 1.182 requesting July 27, 2004, the date the missing pages were filed, as the filing date, the pages filed on July 27, 2004, will not be entered.

An amendment to the specification deleting references to the missing pages and the material on the pages should be filed prior to the first USPTO action in order to avoid further delays in the examination of the application. In the alternative, if petitioner desires for the examiner to consider pages which were not submitted as part of the original disclosure, then petitioner may seek to submit some or all of those pages as an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a).

If a request of reconsideration, or petition under 37 CFR 1.182, is not filed within two months, technology center Art Unit 1752 will be notified to examine, in due course, the application without the missing pages using the filing date of January 30, 2004.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE CA 95157

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OFFICE OF PETITIONS

In re Application of	:	
Rao et al.	:	
Application No.: 10/769621	:	ON PETITION
Filing or 371(c) Date: 01/30/2004	:	
Attorney Docket Number:	:	
IPHD-P024	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed March 7, 2007.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed October 12, 2005. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on January 13, 2006. A Notice of Abandonment was mailed May 2, 2006.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2618 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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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
10/769,649	01/30/2004	2814	842	5649-1186	3	24	3

CONFIRMATION NO. 8561

CORRECTED FILING RECEIPT

OC000000012741328

Elizabeth A. Stanek, Esq.
Myers Bigel Sibley & Sajovec, P. A.
P.O. Box 37428
Raleigh, NC 27627

Date Mailed: 05/21/2004

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)

Jeung-Hwan Park, Gyeonggi-do, KOREA, REPUBLIC OF;
Myoung-Kwan Cho, Gyeongsangbuk-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 10-2003-006598 02/03/2003

If Required, Foreign Filing License Granted: 04/30/2004

Projected Publication Date: 09/02/2004

Non-Publication Request: No

Early Publication Request: No

Title

Integrated circuit devices having contact holes exposing gate electrodes in active regions and methods of fabricating the same

Preliminary Class

257

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,651	01/31/2004	Marie Ann Baldwin	10002062-2	8559

7590 04/09/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
KAU, STEVEN Y

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
04/09/2008	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☑ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tom Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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THOMAS B. TATE
708-13TH AVE. NO.
P.O. BOX 41
SOUTH ST. PAUL, MN 55075

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Mark Justice :
Application No. 10/769,655 : ON PETITION
Filed: February 2, 2004 :
Attorney Docket No. P.226 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed December 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 21, 2005.

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 file is being forwarded to the Publishing Division.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Mark W. Justice
885 68th St.
Amery, WI 54001

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JEFFREY D. MYERS
PEACOCK MYERS, PC
P O BOX 26927
ALBUQUERQUE, NEW MEXICO 87125-6927

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OFFICE OF PETITIONS

In re Patent No. 7,069,729	:	
Issue Date: December 16, 2004	:	
Application No. 10/769,658	:	ON PETITION
Filed: January 30, 2004	:	
Attorney Docket No. 30394-1115	:	

This is a decision on the request under 37 CFR 3.81(b), filed June 2, 2006, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

It is noted that the second assignee's name appearing on the cover sheet in the assignment records of the U.S. Patent and Trademark Office differs from the name as set forth in the recorded assignment document. Accordingly, petitioner should consider filing a corrected cover sheet in accordance with MPEP Section 323.01.

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
Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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KONRAD RAYNES & VICTOR, LLP.
ATTN: IBM37
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS, CA 90212

Mail Date: 04/20/2010

Applicant	: Sergio P. Bonilla	: DECISION ON REQUEST FOR
Patent Number	: 7587421	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/769,684	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **670** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 05/03/2010

Applicant	: Leonid Kazakevich	: DECISION ON REQUEST FOR
Patent Number	: 7660561	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/769,690	: 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 **1785** 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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Paper No. 101504

LAW OFFICE OF JOHN D. GUGLIOTTA
202 DELAWARE BUILDING
137 SOUTH MAIN STREET
AKRON, OH 44308

DEC 30 2004

In re Application of:	:	
JAMES R. BOWERS	:	DECISION ON PETITION
Serial No.: 10/769,697	:	TO MAKE SPECIAL
Filed: February 02, 2004	:	
Attorney Docket No.: **1388**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed February 02, 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, James R. Bowers, 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 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Shokrollahi et al.	:	
Application No. 10/769,732	:	ON PETITION
Filed: January 29, 2004	:	
Attorney Docket No. 019186-004810US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 17, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,030,316	2006-04-18	10/769,738	2004-01-30	16831-0002001

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	/Brian J. Gustafson/	Date (YYYY-MM-DD)	2010-06-16
Name	Brian J. Gustafson	Registration Number	52978

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 7030316
Issue Date: April 18,2006
Application No. 10769738
Filed: January 30,2004
Attorney Docket No. 16831-002001

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed June 16,2010 ,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 June 16,2010 .
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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

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NOV 16 2005

OFFICE OF PETITIONS

In re Application of
Robert L. Diaz et al
Application No. 10/769,743
Filed: January 23, 2004
Attorney Docket No. 2385.005

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 19, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED** due to the face that applicant Robert L. Diaz is only 64 years of age.

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.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3733 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARLINGTON VA 22201-4714

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OFFICE OF PETITIONS

In re Application of	:	
Charlton et al	:	
Application No. 10/769,755	:	ON PETITION
Filed: February 3, 2004	:	
Attorney Docket No. 553-80	:	

This is a decision on the petition, filed November 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2874 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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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EMERY JAMIESON LLP
1700 Oxford Tower
10235 - 101 Street
Edmonton, AB T5J 3G1
CANADA

Mail Date: 07/06/2010

Applicant	: Edward James Cargill	: DECISION ON REQUEST FOR
Patent Number	: 7651100	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/769,761	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **849** 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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STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

Mail Date: 05/21/2010

Applicant	: Eog-kyu Kim	: DECISION ON REQUEST FOR
Patent Number	: 7664253	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/769,768	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1354** 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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MAR 12 2007

OFFICE OF PETITIONS

PI-HSIA CHANG
P.O. Box 697
Feng-Yuan City 420 ROC TW TAIWAN

In re Application of PI-HSIA CHANG Application No. 10/769,773 Filed: February 3, 2004 Title: A WRENCH HAVING A RATCHET HEAD ABLE TO VERTICALLY AND HORIZONTALLY ROTATE FOR 360°	DECISION ON PETITION UNDER 37 C.F.R. §1.181

This is a decision on the petition filed on August 18, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

Receipt of the issue fee, publication fee, and PTOL-85b is acknowledged.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Corrected Notice of Allowance and Issue Fee Due, mailed August 21, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[1]. Accordingly, the above-identified application became abandoned on November 22, 2006.

The Notice of Abandonment which was mailed on August 23, 2006 was mailed prior to the abandonment of this application, and is hereby **VACATED**. However, the application remains abandoned, pursuant to the discussion above.

1 See MPEP §710.02(e).

RELEVANT PORTION OF THE MPEP

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 instant petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that he has "no habit to make docket record in my file (sic)."

Petitioner has set for that the Office communication was not received. Petitioner must state that he has searched the place where he normally would keep such communications and could not find it. Petitioner must explain his system for keeping track of patent matters - where he keeps the correspondence[2]; where he writes down due dates[3]; how he knows when replies are due, etc. In essence, **Petitioner must explain how he reminds himself of response due dates and show that the due date for the payment of the issue and publication fees was not entered into that system.** The Office would like to see documentary evidence and records as may exist which would substantiate that Petitioner exercised due diligence with respect to his most important business.

CONCLUSION

As such, 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[4], hand-delivery[5], or facsimile[6].

Finally, Petitioner has set forth:

> I find in the filing receipt of the above-captioned case that omits the (R.O.C.) in my address. This will case the Office Actions of USPTO mailed to (P.R.O.C.). Otherwise it may be lost. For my interest, please replace the original filing receipt with new one in which the (TAIWAN, R.O.C.) must includes in applicant address.

Petitioner will note that his address now appears as "PI-HSIA CHANG, P.O. Box 697, Feng-Yuan City 420 ROC TW TAIWAN." A new filing receipt will not be issued.

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2 Does Petitioner have a file/some means of organization where he keeps correspondence pertaining to this application?
3 This need not be a log. This may be in the form of a calendar or date book.
4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[7]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

PI-HSIA CHANG
P.O. Box 697
Feng-Yuan City 420 ROC TW TAIWAN

COPY MAILED

SEP 12 2007

OFFICE OF PETITIONS

In re Application of
PI-HSIA CHANG
Application No. 10/769,773
Filed: February 3, 2004
Title: A WRENCH HAVING A RATCHET HEAD ABLE TO VERTICALLY AND HORIZONTALLY ROTATE FOR 360°

DECISION ON PETITION UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition filed March 23, 2007 and March 27, 2007, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Corrected Notice of Allowance and Issue Fee Due, mailed August 21, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on November 22, 2006.

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1 A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 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.

2 See MPEP § 710.02(e).

A petition pursuant to 37 C.F.R. § 1.181 was filed on August 18, 2006, and was dismissed via the mailing of a decision on March 12, 2007.

The decision on the prior petition set forth, in part:

> The Notice of Abandonment which was mailed on August 23, 2006 was mailed prior to the abandonment of this application, and is hereby **VACATED**. However, the application remains abandoned, pursuant to the discussion above.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. No terminal disclaimer is required. The issue fee, publication fee, and PTOL-85b were submitted with the prior petition.

As such, the petition under 37 C.F.R. § 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**.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[3]. 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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3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: Uratani, et al.
Application No. 10/769,784
Filed: February 3, 2004
For: DISK ARRAY APPARATUS, AND METHOD FOR 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 22 April 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 22 April 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to point out how each reference defines over each independent claim. The discussion states that independent claims 1, 8, 11, 17, 18, and 19 each recite "another disk array apparatus incapable of establishing a direct connection with the host computer". However, each of these claims actually recites a "disk array apparatus communicably connected to a host computer *and/or* another disk array apparatus incapable of establishing a direct connection with the host computer" (emphasis added). Thus, these claims do not necessarily require the "another disk array apparatus . . .". 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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TECHNOLOGY CENTER 2100

In re Application of: Uratani, et al.
Application No. 10/769,784
Filed: February 3, 2004
For: DISC ARRAY APPARATUS AND METHOD FOR CONTROLLING THE SAME

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 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 April 22, 2005, and dismissed on May 16, 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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OFFICE OF PETITIONS

In re Application of	:
Ikuo Uratani et al	:
Application No. 10/769,784	: DECISION GRANTING PETITION
Filed: February 3, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1309.43471X00	:

This is a decision on the petition, filed December 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 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) 272-3218.

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 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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SUITE 800
WASHINGTON, DC 20037

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OFFICE OF PETITIONS

In re Application of :
Michihiro Miyake :
Application No. 10/769,792 : ON PETITION
Filed: February 3, 2004 :
Attorney Docket No. Q79500

This is a decision on the petition, filed October 31, 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 8, 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 3611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

In re Application of	:	
Michihiro Miyake	:	
Application No. 10/769,792	:	DECISION GRANTING PETITION
Filed: February 3, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q79500	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 8, 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 19, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
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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TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Application of: Tamura, et al.
Application No. 10/769,805
Filed: February 3, 2004
For: STORAGE SYSTEM AND STORAGE CONTROLLER

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed September 14, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed September 14, 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). Specifically, 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. It is noted that independent claims 6-9 differ in scope from the discussion presented in the petition with respect to independent claims 1-2, specifically regarding the steps involving with obtaining, mapping and selections of paths and path information as recited in claims 6-9.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

3/17/05

SDL: 03/15/05

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APR 19 2006

TECHNOLOGY CENTER 2100

In re Application of: Tamura, et al.
Application No. 10/769,805
Filed: February 3, 2004
For: STORAGE SYSTEM STORAGE CONTROLLER

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 April 20, 2005 (supplemental filed on June 17, 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 September 14, 2004, and dismissed on March 24, 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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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: Mori, et al.
Application No. 10/769,806
Filed: February 3, 2004
For: DATA ACCESS SYSTEM AND METHOD

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 30 March 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

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Paper No. 032205

MATTINGLY, STANGER,
MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD, SUITE 370
ALEXANDRIA VA 22314

MAY 18 2005

In re Application of	:	
KATSUYOSHI SUZUKI et al.	:	DECISION ON PETITION
Application No. 10/769,807	:	
Filed: February 03, 2004	:	
Attorney Docket No. 1309.43475X00	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed March 16, 2005 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.

José G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON DC 20037-1526

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AUG 1 3 2004
OFFICE OF PETITIONS

In re Application of	:	
Negoro, et al.	:	DECISION REFUSING STATUS
Application No.: 10/769,817	:	UNDER 37 CFR 1.47(a)
Filed: February 3, 2004	:	
Attorney Docket No.: R2180.0189/P189	:	
For: SEMICONDUCTOR DEVICE HAVING DMOS AND CMOS ON SINGLE SUBSTRATE		

This is a decision on the petition under 37 CFR 1.47(a), filed July 16, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on February 3, 2004 without an executed oath or declaration. Accordingly, on April 30, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on July 16, 2004, a petition for a one month extension of time and required fee, a declaration executed by 2 of 3 joint inventors, the surcharge, and the instant petition and required fee were filed.

A declaration of facts of Suichi Tomita, a member of the intellectual property group of Ricoh Technology Research, Inc., accompanies the petition. Mr. Tomita explains the efforts made to locate non-signing inventor Takeshi Kimura.

A grantable petition under 37 CFR 1.47(a) requires:

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks items (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The mailing/ post office address of non-signing inventor Kimura is not included on the declaration. The mailing/post office address of each inventor must be included on the oath or declaration. 37 CFR 1.63(c)(1); MPEP 605.03 As Mr. Kimura is not executing the declaration, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor.

All signing inventors must execute another declaration that lists the application serial number and filing date, contains the signers' own information, and lists Mr. Kimura's citizenship, residence, and mailing/post office address. The signing inventors should sign in their respective signature blocks. Mr. Kimura's signature block should be left blank. The Office will interpret this submission as the signing inventors signing the declaration on behalf of Mr. Kimura.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712. After September 28, 2004, please call (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON DC 20037-1526

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OFFICE OF PETITIONS

In re Application of :
Negoro, et al. :
Application No.: 10/769,817 :
Filed: February 3, 2004 :
Attorney Docket No.: R2180.0189/P189 :
For: SEMICONDUCTOR DEVICE HAVING DMOS AND CMOS ON SINGLE SUBSTRATE

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed October 13, 2004.

The petition is granted.

Petitioners have shown that the non-signing inventor, Takeshi Kimura, cannot be located. Specifically, the declaration of facts of Suichi Tomita, a member of the intellectual property group of Ricoh Technology Research, Inc., establishes that despite attempts to locate the inventor through the mail, through inquiries of his former colleagues, through inquiries of the post office, through telephone calls, and through Internet searches, that Mr. Kimura cannot be located. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center G.A.U. 2822 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Paper No: __

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495 METRO PLACE SOUTH
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JAN 26 2005
CANCELLED
OFFICE OF PETITIONS

In re Application of
Dunn, et al.
Application No. 10/769,838
Filed: 2 February, 2004
Attorney Docket No. AME 1638-005C

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 4 November, 2004.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 2 February, 2004, without, *inter alia*, a fully executed oath or declaration; and

- on 30 April, 2004, the Office mailed a Notice to File Missing Parts;

- on 4 November, 2004, Petitioner filed, *inter alia*, the instant petition under 37 C.F.R. §1.47, with fee; an oath/declaration signed by one of the named inventors William R. Dunn (Mr. Dunn, but not Keuk-Sang Kwon (Mr. Kwon), Hyoung-Yol Park (Mr. Park) and In-Byeong Kang (Mr. Kang), the non-signing inventors–and Mr. Dunn signed for himself and on behalf of Messrs. Kwon, Park and Kang; and, *inter alia*, a narrative within the petition and a separate statement by Petitioner Stephen L. Grant (Reg. No. 33,390) and a statement of Mr. Dunn, which together represent that the entire application (specification, claims, drawings)

was delivered by hand to Messrs. Kwon. Park and Kang, and a due diligence effort was made to ascertain the current addresses of the non-signing inventors;

- also included is a statement that the inventors Messrs. Kwon. Park and Kang nonetheless have failed to sign the oath or declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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MAY 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
William R. Dunn et al	:	
Application No. 10/769,838	:	DECISION ON PETITION
Filed: February 2, 2004	:	TO WITHDRAW
Attorney Docket No. AME 1638-005C	:	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 18, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Stephen L. Grant, along with all of the other attorneys associated with Customer No. 08698, has been revoked by the assignee of the patent application on December 9, 2005. 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/assignee or the current attorneys of record.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

cc:

GREENBERG TRAURIG
ATTN: JOHN R WAHL
2450 COLORADO AVENUE,
SUITE 400E
SANTA MONICA, CA 90404

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-1-09

TO SPE OF : ART UNIT 2891

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/769838 Patent No.: 7292291

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should COC w be approved

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Ennis 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: _____

[signature]
SPE

2871
Art Unit

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OFFICE OF PETITIONS

In re Application of	:	
Dunn et al.	:	DECISION REFUSING STATUS
Application No.10/769,842	:	UNDER 37 CFR 1.47(a)
Filed: February 2, 2004	:	
Attorney Docket No. AME 1638-005D	:	
Title: FLAT PANEL DISPLAY HAVING	:	
INTEGRAL HEATER, EMI SHIELD, AND	:	
THERMAL SENSORS		

This is in response to the petition under 37 CFR § 1.47(a), filed November 4, 2004.

The petition under 37 CFR. § 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on February 2, 2004, without an executed oath or declaration. Accordingly, on April 30, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, for the purposes of this decision, an executed oath or declaration in compliance with § 1.63 and a surcharge for its late filing. This Notice set an extendable two-month period for reply of June 30, 2004.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a four (4) month extension of time was also submitted.

A grantable petition under 37 CFR. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (4).

As to item (4), the last known addresses for inventors Kwon, Park and Kang were provided in the petition and on the declaration. However the addresses appear to be the same business address. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. See MPEP 605.03. If the addresses provided on the declaration for the non-signing inventors are home addresses a statement to that effect should be presented. Otherwise the home addresses of the non-signing inventors should be provided in a newly executed declaration or an application data sheet.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 20th Street S. Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN OH 43017

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FEB 25 2005

OFFICE OF PETITIONS

In re Application of
William Dunn, Keung-Sang Kwon, Hyoung-Yol Park and In-Byeong Kang
Application No. 10/769,842
Filed: February 2, 2004
Attorney Docket Number: AME 1638-005D
Title of Invention: FLAT PANEL DISPLAY HAVING INTEGRAL HEATER, EMI SHIELD, AND THERMAL SENSORS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 21, 2005.

The petition is GRANTED.

Petitioner has shown the non-signing inventors Kwon, Park, Kang have refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application papers were sent to non-signing inventors' last known addresses. The non-signing inventors' failure to respond to the application mailing sufficiently establishes that they refuse to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this

application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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In-Byeong Kang
105-102 Chungu Apartment
Namton-gdong,
Kumi-shi, Kyoungsangbuk-do
Korea
Airmail

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FEB 25 2005

OFFICE OF PETITIONS

In re Application of
William Dunn, Keung-Sang Kwon, Hyoung-Yol Park and In-Byeong Kang
Application No. 10/769,842
Filed: February 2, 2004
Attorney Docket Number: AME 1638-005B
Title of Invention: FLAT PANEL DISPLAY HAVING INTEGRAL HEATER, EMI SHIELD, AND THERMAL SENSORS

LETTER

Dear Mr. Kang:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

STEPHEN L. GRANT
STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
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UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Keuk-Sang Kwon
#111-205 Woobangsincheonji Town
Chilgok-gun Kyongsangbuk-do
Republic of Korea
Airmail

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FEB 25 2005

OFFICE OF PETITIONS

In re Application of
William Dunn, Keung-Sang Kwon, Hyoung-Yol Park and In-Byeong Kang
Application No. 10/769,842
Filed: February 2, 2004
Attorney Docket Number: AME 1638-005B
Title of Invention: FLAT PANEL DISPLAY HAVING INTEGRAL HEATER, EMI SHIELD, AND THERMAL SENSORS

LETTER

Dear Mr. Kwon:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Stephen L. Grant
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Hyoung-Yol Park
Junwon Apt 101-1109 Bisan Dong
Kumi City, Kyung Buk
South Korea
Airmail

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OFFICE OF PETITIONS

In re Application of
William Dunn, Keung-Sang Kwon, Hyoung-Yol Park and In-Byeong Kang
Application No. 10/769,842
Filed: February 2, 2004
Attorney Docket Number: AME 1638-005B
Title of Invention: FLAT PANEL DISPLAY HAVING INTEGRAL HEATER, EMI SHIELD, AND THERMAL SENSORS

LETTER

Dear Mr. Park:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

STEPHEN L. GRANT
STANDLEY LAW GROUP LLP
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STEPHEN GRANT
STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
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OFFICE OF PETITIONS

In re Application of	:	
William R. Dunn et al	:	
Application No. 10/769,842	:	DECISION ON PETITION
Filed: February 2, 2004	:	TO WITHDRAW
Attorney Docket No. AME 1638-005D	:	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 18, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Stephen Grant has been revoked by the assignee of the patent application on December 9, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272- 3210.

David Bucci
Petitions Examiner
Office of Petitions

cc: Attn: John R. Wahl
Greenberg Traurig, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of Dunn et al. Application No.10/769,843 Filed: February 2, 2004 Attorney Docket No. AME 1638-005B Title: FLAT PANEL DISPLAY HAVING INTEGRAL HEATER, EMI SHIELD, AND THERMAL SENSORS	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR § 1.47(a), filed November 4, 2004 certificate of mailing November 1, 2004.

The petition under 37 CFR. § 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on February 2, 2004, without an executed oath or declaration. Accordingly, on April 30, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, for the purposes of this decision, an executed oath or declaration in compliance with § 1.63 and a surcharge for its late filing. This Notice set an extendable two-month period for reply of June 30, 2004.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a four (4) month extension of time was also submitted.

A grantable petition under 37 CFR. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (4).

As to item (4), the last known addresses for inventors Kwon, Park and Kang were provided in the petition and on the declaration. However the addresses appear to be the same business address. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. See MPEP 605.03. If the addresses provided on the declaration for the non-signing inventors are home addresses a statement to that effect should be presented. Otherwise the home addresses of the non-signing inventors should be provided in a newly executed declaration or an application data sheet.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 20th Street S. Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN OH 43017

COPY MAILED

FEB 25 2005

OFFICE OF PETITIONS

In re Application of
William Dunn, Keung-Sang Kwon, Hyoung-Yol Park and In-Byeong Kang
Application No. 10/769,843
Filed: February 2, 2004
Attorney Docket Number: AME 1638-005B
Title of Invention: FLAT PANEL DISPLAY HAVING INTEGRAL HEATER, EMI SHIELD, AND THERMAL SENSORS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 21, 2005.

The petition is GRANTED.

Petitioner has shown the non-signing inventors Kwon, Park, Kang have refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application papers were sent to non-signing inventors' last known addresses. The non-signing inventors' failure to respond to the application mailing sufficiently establishes that they refuse to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this

application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3215.

Charlema R. Grant
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

Hyoung-Yol Park
Junwon Apt 101-1109 Bisan Dong
Kumi City, Kyung Buk
South Korea
Airmail

In re Application of
William Dunn, Keung-Sang Kwon, Hyoung-Yol Park and In-Byeong Kang
Application No. 10/769,843
Filed: February 2, 2004
Attorney Docket Number: AME 1638-005B
Title of Invention: FLAT PANEL DISPLAY HAVING INTEGRAL HEATER, EMI SHIELD, AND THERMAL SENSORS

LETTER

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FEB 25 2005

OFFICE OF PETITIONS

Dear Mr. Park:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

STEPHEN L. GRANT
STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN OH 43017

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

Keuk-Sang Kwon
#111-205 Woobangsincheonji Town
Chilgok-gun Kyongsangbuk-do
Republic of Korea
Airmail

In re Application of
William Dunn, Keung-Sang Kwon, Hyoung-Yol Park and In-Byeong Kang
Application No. 10/769,843
Filed: February 2, 2004
Attorney Docket Number: AME 1638-005B
Title of Invention: FLAT PANEL DISPLAY HAVING INTEGRAL HEATER, EMI SHIELD, AND THERMAL SENSORS

LETTER

COPY MAILED

FEB 25 2005

OFFICE OF PETITIONS

Dear Mr. Kwon:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Stephen L. Grant
STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN OH 43017

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In-Byeong Kang
105-102 Chungu Apartment
Namton-gdong,
Kumi-shi, Kyoungsangbuk-do
Korea
Airmail

In re Application of
William Dunn, Keung-Sang Kwon, Hyoung-Yol Park and In-Byeong Kang
Application No. 10/769,843
Filed: February 2, 2004
Attorney Docket Number: AME 1638-005B
Title of Invention: FLAT PANEL DISPLAY HAVING INTEGRAL HEATER, EMI SHIELD, AND THERMAL SENSORS

LETTER

COPY MAILED

FEB 25 2005

OFFICE OF PETITIONS

Dear Mr. Kang:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

STEPHEN L. GRANT
STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN OH 43017

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APR 2 4 2006

OFFICE OF PETITIONS

In re Application of	:	
William R. Dunn et al	:	DECISION ON PETITION
Application No. 10/769,843	:	TO WITHDRAW
Filed: February 2, 2004	:	FROM RECORD
Attorney Docket No. AME 1638-005B	:	

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 18, 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 Stephen L Grant on behalf of all attorneys of record who are associated with customer No. 33717.

All attorneys/agents associated with the Customer Number 33717 have been withdrawn.

Applicants are 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 inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 2871.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: GREENBERG TRAURIG
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAR 20 2006

Dowell & Dowell PC
2111 Eisenhower Ave.
Suite 406
Alexandria, VA 22314

In re Application of:
Wood
Serial No.: 10/769,871
Filed: February 3, 2004
Attorney Docket No.: **14607**
Title: **WAVE ENERGY CONVERSION SYSTEM**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed January 3, 2006.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Ralph A. Dowell, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Charles Wood, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Hien Phan at (571) 272-1606.

Hien Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Charles Wood
21 Samona Beach Lane R.R.5
Kincardine, Ontario
Canada N2Z 2X6

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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Liniak, Berenato & White
6550 Rock Spring Drive, Suite. 240
Bethesda MD 20817

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AUG 30 2006

OFFICE OF PETITIONS

In re Application of	:	
BLACKBURN, et al.	:	
Application No. 10/769,881	:	DECISION ON PETITION
Filed: February 3, 2004	:	TO WITHDRAW
Attorney Docket No. 8200.555	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas P. Liniak. Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Kara Chase for
Amelia Au
Petitions Examiner
Office of Petitions

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SEP 05 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005

In re Application of
Kyoung-Weon NA
Application No. 10/769,882
Filed: February 3, 2004
For: **MANAGING AN ADDRESS BOOK IN PORTABLE TERMINAL HAVING A CAMERA**

ACCEPTANCE OF PAPERS

This is a decision responsive to the petition filed August 6, 2007 requesting consideration of the references filed in an Information Disclosure Statement originally filed on February 3, 2004. This decision is also responsive to the copy of the Information Disclosure Statement filed with the instant petition on August 6, 2007.

Petitioner asserts that an Information Disclosure Statement was received by the US PTO on February 3, 2004. Applicant has also provided a copy of a date-stamped postcard evidencing receipt of these items by the US PTO on February 3, 2004.

A review of the file does not find the original submission. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not scanned into the application image file. Therefore, it is presumed that the original submission was received by the Office, but lost. The Office sincerely apologizes for any inconvenience to applicant.

The August 6, 2007 copy of the originally filed Information Disclosure Statement is **ACCEPTED.** Accordingly, the August 6, 2007 resubmission of the originally filed Information Disclosure Statement will be considered.

The application file is being forwarded to the Examiner for appropriate consideration in due course. Applicant should note that this decision does not toll the period for response to the non-final Office action mailed July 26, 2007.

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

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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JUN - 3 2005

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

In re Application of	:
Gabriele Breviglieri et al	:
Serial No.: 10/769,886	: PETITION TO MAKE SPECIAL
Filed: February 3, 2004	:
Attorney Docket No.: 2503-1078	:

This is in response to applicants' petition filed September 8, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 2 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

CARL I. BRUNDIDGE
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VIRGINIA 22209-9889

In re Application of: Nagasoe, et al.
Application No. 10/769,887
Filed: February 03, 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 October 14, 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 October 14, 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). Petitioner's submission is deficient in that it merely paraphrases the disclosure, title and/or abstract of each reference (as in the discussion of Japanese Application No. 2000/267,908, which paraphrases the title and abstract) accompanied by a statement that the references do not include certain features of the claimed invention. There appears to be little correspondence between the alleged features of the invention (recited in section b, pages 4-5 of the petition) and the claimed invention. Most of the limitations of the claims do not appear to have been discussed, including, for example, access control means, device recognition control mode, and unit mode setting means. In addition, many of the features which are alleged to be absent from the prior art are not actually claimed. For example, the six "attributes" (section b, page 4 of the petition) are not recited in the claims. Additionally, the meaning of the word "...or the like..." as recited in line 4, page 5 of the petition is unknown. Finally, all of the claims appear to differ in scope from each other. 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
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

1/19/05

HMJ: 01/18/2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: NAGASOE et al. Application No. 10/769,887 Filed: February 03, 2004 For: STORAGE SYSTEM	DECISION ON RECONSIDERATION OF 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 15, 2005 of the petition to make special under 37 C.F.R. 1.102(d) and M.P.E.P 708.02 (VIII): ACCELERATED EXAMINATION, originally filed on October 14, 2004.

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
703-308-0885

4/11/05

JC

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JUL 21 2005

Technology Center 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD, SUITE 370
ALEXANDRIA, VIRGINIA 22314

In re Application of: NAKANO ET AL.
Application No. 10/769,888
Filed: February 3, 2004
For: DATABASE SYSTEM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a response to the petition filed June 16, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner 7/15/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

AWK

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: Okada et. al.
Application No. 10/769,889
Filed: February 3, 2004
For: STORAGE SYSTEM, AND METHOD FOR MAINTAING THE STORAGE SYSTEM

PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)
DECISION ON PETITION

This is a response to the petition filed December 22, 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, 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 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 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 December 22, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), applicant must provide a detailed discussion of the reference documents. The applicant should discuss each independent claim in view of the references cited. For example, the applicant merely indicates that most of the features of claim 1 are not taught by either reference.

However, the features of providing the detected event in a memory means, extracting a shut down functional part from the storage system, and acquiring the event information from the memory means disposed in the extracted functional part are not set forth in independent claim 1.

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. The statement that the references shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

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 of 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
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

4/8/05

JC

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Frederick D. Bailey
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
Suite 370
ALEXANDRIA, VA 22314

MAILED

APR 26 2006

TECHNOLOGY CENTER 2100

In re Application of: OKADA, et al.
Application No. 10/769,889
Filed: 3 February 2004
For: STORAGE SYSTEM, AND METHOD FOR MAINTAINING THE 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 18 May 2005 (supplemented on 17 June 2005) on the petition to make special under 37 CFR §102(d) and MPEP §708.02(VIII): Accelerated Examination, originally filed on 22 December 2004.

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 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 Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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DIRECTOR OFFICE
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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of
YAMAMOTO, MASANOBU
Application No. 10/769,895
Filed: February 3, 2004
For: **DATA SAVE IN DISK ARRAY SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed February 3, 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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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 06/10/2010

Applicant	: Shunpei Yamazaki	: DECISION ON REQUEST FOR
Patent Number	: 7629025	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/769,907	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1495** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DIRECTOR OFFICE
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-9889

In re Application of	:	
H. Okamoto, et al.	:	
Application No. 10/769,927	:	DECISION ON PETITION TO
Filed: February 3, 2004	:	MAKE SPECIAL
For: CHANNEL ADAPTER AND DISK ARRAY DEVICE	:	

This is a decision on the petition filed September 14, 2004 pursuant to Manual of Patent Examination Procedure §708.02, section VIII, requesting accelerated.

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

10-769987

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/17/2006

TO SPE OF : ART UNIT 2100 (2114)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,073,092

10-769987

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 – 2900 South Tower ste.9A43A
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.

***ok to make changes to item (30) as req. in COCIN in Madras?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER
SPE

2114
Art Unit

PTOL-306 (REV. 7/03)

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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
10/769,929	02/02/2004	2818	856	5649-1230	3	20	4

CONFIRMATION NO. 9610

CORRECTED FILING RECEIPT

OC000000012701013

Robert M. Meeks
Myers Bigel Sibley & Sajovee
Post Office Box 37428
Raleigh, NC 27627

Date Mailed: 05/18/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

In-Sung Park, Seoul, KOREA, REPUBLIC OF;
Ki-Vin Im, Gyeonggi-do, KOREA, REPUBLIC OF;
Ki-Yeon Park, Gyeonggi-do, KOREA, REPUBLIC OF;
Jae-Hyun Yeo, Seoul, KOREA, REPUBLIC OF;
Yun-Jung Lee, Seoul, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2003-6513 02/03/2003

If Required, Foreign Filing License Granted: 04/30/2004

Projected Publication Date: 08/26/2004

Non-Publication Request: No

Early Publication Request: No

Title

Methods and apparatus for forming dielectric structures in integrated circuits

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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In re Patent No. 7034740
Issue Date: April 25,2006
Application No. 10769965
Filed: February 2,2004
Attorney Docket No. HO-P02811US1

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed June 11,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 11,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,034,740	2006-04-25	10/769,965	2004-02-02	04106.000100.

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	/Jonathan Berschadsky/	Date (YYYY-MM-DD)	2010-06-11
Name	Jonathan Berschadsky	Registration Number	46551

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : May 08, 2008

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/770006 Patent No.: 7019057 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response to the employee (named below) via scanning into application images, using document code COCX.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

HAROLD PYON
SUPERVISORY PATENT EXAMINER
SPE 1796

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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JUN 2 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: Yonggen JIN, et al.
Application No. 10/770,007
Filed: February 3, 2004
For: STORAGE SYSTEM AND DATA CACHING METHOD IN THE SYSTEM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed April 22, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner 6/6/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

RP

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED

JUL 0 5 2005

Technology Center 2100

In re Application of JIN et al. :
Application No.: 10/770,007 :
Filing Date: February 3, 2004 : COMMUNICATION
For: STORAGE SYSTEM AND DATA :
CACHING METHOD IN THE SYSTEM :

This is in response to applicant's "Supplemental Petition to Make Special Under 37 CFR §1.102(MPEP §708.02)" filed June 10, 2005.

On April 22, 2005, applicant filed a petition for accelerated examination under 37 CFR 1.102(d).

On June 10, 2005, applicant filed the present supplemental petition under 37 CFR 1.102(d).

On June 20, 2005, the Office mailed a decision granting the April 22, 2005 petition.

A review of the application file reveals that the June 10, 2005 supplemental petition was not matched to the application file before the decision was issued. The remarks contained in the supplemental petition have been considered and are do not alter the decision mailed June 20, 2005. Accordingly, The petition is **DISMISSED** as **MOOT**.

The application file is being returned to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, & MALUR P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: Watanabe, et al.
Application No. 10/770,008
Filed: February 3, 2004
For: STORAGE SYSTEM AND SNAPSHOT MANAGEMENT METHOD THEREOF

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed December 22, 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, 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 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 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 December 22, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), applicant must provide a detailed discussion of the reference documents. The applicant has deemed which reference is the most closely related references; however, it is not clear that the references cited and discussed are the most closely related; since (for example), the title of the invention of the Demmon reference, 2004/0167972, (Apparatus and method for providing dynamic and automated assignment of data logical unit numbers) does not appear to be pertinent to the present application. Also, merely paraphrasing one or two paragraphs of each reference (as in the discussion of U.S. Patent Publication No. 2003/0182301, which paraphrases the summary of the invention) accompanied by a copy of the entire independent claim 1, as the specific feature not taught, is not sufficient to satisfy requirement (e). 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. The statement that the references shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

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
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

JC

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER & MALUR, P.C.
1800 Diagonal Road
Suite 370
Alexandria VA 22314

In re Application of: Watanabe, et al.
Application No. 10/770,008
Filed: February 3, 2004
For: STORAGE SYSTEM AND SNAPSHOT MANAGEMEMNT METHOD THEREOF

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the supplemental petition filed May 10, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

Note: The examiner has noticed that the IDS filed on December 22, 2004 includes the prior art reference(s) Publication "2003/016730 A1" should be "2003/0167380 A1" to provide correct Publication Number and "2003/0182301" should be "2003/0182301 A1" to be consistent with other cited Publication in the PTO-1449.

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 4/9/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

RP

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McDermott, Will & Emery, LLP
600 13th Street, NW
Washington, DC 20005-3096

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AUG 2 7 2004
OFFICE OF PETITIONS

In re Application of	:	
Masaki Yoshizawa, et. al.	:	
Application No. 10/770,016	:	NOTICE
Filed: February 3, 2004	:	
Attorney Docket No. 58647-179	:	

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**.

Per petitioner's request, a corrected filing receipt indicating that the above-identified application is no longer entitled to small entity status is enclosed with this Notice.

This application is being referred to Technology Center Art Unit 2181, for further processing, in due course.

Inquiries related to this communication should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090213-A

DATE : February 13, 2009

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 7,244,751

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:

/Janet L Andres/
Supervisory Patent Examiner.Art Unit 1625

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090213-A

DATE : February 13, 2009

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 7,244,751

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:

/Janet L Andres/
Supervisory Patent Examiner.Art Unit 1625

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Fish & Richardson P.C.
1245 K Street NW
11TH Floor
Washington, DC 20005-3500

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APR 13 2005

Director's Office
Group 3700

In re Application of
Peter P. Gale et al
Serial No. : 10/770,049
Filed : February 2, 2004
For : Pneumatic Oxygen Conserving Device

: DECISION ON PETITION
: TO MAKE SPECIAL
: (INFRINGEMENT)

This is a decision on the petition under C.F.R. § 1.102(d) filed January 24, 2005 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed January 24, 2005 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750
ak/4/12/05

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Paper No: __

HANLEY, FLIGHT
& ZIMMERMAN, LLC
20 N. WACKER DRIVE
SUITE 4220
CHICAGO IL 60606

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Pepperling, et al.	:	DECISION
Application No.: 10/770,066	:	
Filing Date: 2 February, 2004	:	
Attorney Docket No. 20040/57-11430-A	:	

This is a decision on the petition filed on 26 May, 2006, to withdraw the holding of abandonment and is considered under 37 C.F.R. §1.181; and, alternatively, for relief under 37 C.F.R. §1.137(b).

NOTES:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Moreover, Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

Petitioner might find it helpful to review the requirements as to such relief set forth at MPEP §711.03(c)–in particular that for submission of a true copy of the date-stamped receipt card.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**; and the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply to the final Office action mailed on 6 October, 2005, with reply, due absent an extension of time on or before 6 January, 2006;
- the application went abandoned by operation of law after midnight 6 January, 2006;
- the Office mailed the Notice of Abandonment on 17 May, 2006;
- on 26 May, 2006, Petitioner filed the original petition with averments of timely filing (but did not provide a copy of the date-stamped receipt card) and submitted copies of papers averred to have been timely filed as a reply over a 6 January, 2006, certificate of mailing, including an request for continued examination and fee and submission in the form an amendment in conformance with the provisions of 37 C.F.R. §1.114;;
- Petitioner, in the alternative petitioned for relief under 37 C.F.R. §1.137(b), pointed to the reply identified above, authorized the fee, and made the statement of unintentional delay.

The record appears to have been updated to reflect Petitioner's filing on 9 January, 2006, of the reply described above.

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and
- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and

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.

---

circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[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.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

Further, the commentary at MPEP §711.03(c) provides:

* * *

> **A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action**
>
> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented

---

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

And the regulation (37 C.F.R. §1.181[9]) requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the "showing" and "timing" requirements described above.

As to the Allegations
of 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 matter is moot.

CONCLUSION

It appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, and the petition as considered under 37 C.F.R. §1.181 is **granted**, and the Notice of 17 May, 2006, is **vacated**; the petition under 37 C.F.R. §1.137(b) is **dismissed as moot**.

---

[9] The regulations at 37 C.F.R. §1.181 provide:
§ 1.181 Petition to the Director.
<>
(a) Petition may be taken to the Director:
(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and
(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.
(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.
(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.
(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.
(e) Oral hearing will not be granted except when considered necessary by the Director.
(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.
(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.
[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

The instant application is released to Technology Center 2800 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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HANLEY, FLIGHT
& ZIMMERMAN, LLC
150 S. WACKER DRIVE/SUITE 2100
CHICAGO IL 60606

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SEP 14 2009

OFFICE OF PETITIONS

Patent No. 7,150,194	:	
Issued: 19 December, 2006	:	
In re Application of	:	DECISION
Pepperling, et al.	:	ON PETITION
Application No. 10/770,066	:	
Filed: 2 February, 2004	:	
Attorney Docket No. 20040/57-11430-A	:	

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 12 December, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to a prior-filed application.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §120 and 37 C.F.R.§1.78(a)(2)(i) of the prior-filed application; unless previously submitted;
(2) the surcharge set forth in 37 C.F.R. §1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Application No, 10/770,066 issued as Patent No. 7,150,194 on 19 December, 2006. The petition complies with the requirements of the regulations at 37 C.F.R. §1.78(a)(3) as to reference, surcharge and statement.

Patent No. 7,150,194
Application No. 10/770,066

A petition under 37 C.F.R. §1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. [1]

However, Office records reflect that a Certificate of Correction of the substance and in the form sought by Petitioner contemporaneously with the instant petition on 12 December, 2008, issued on 21 April, 2009.

Accordingly, the petition under 37 C.F.R. §1.78(a)(3) is **granted** and the fee was charged as authorized to Deposit Account 50-2455.

This matter is released to IFW Files Repository.

Any inquiries concerning this decision may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

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[1] *See* MPEP 1481.

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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.
10/770,072	01/30/2004	Edward K. Y. Jung	0803-001-012-000000	9848

44765 7590 03/04/2009
SEARETE LLC
CLARENCE T. TEGREENE
1756 - 114TH AVE., S.E.
SUITE 110
BELLEVUE, WA 98004

EXAMINER
YAM, STEPHEN K

ART UNIT	PAPER NUMBER
2878	

MAIL DATE	DELIVERY MODE
03/04/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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SEARETE LLC
CLARENCE T. TEGREENE
1756 - 114TH AVE., S.E.
SUITE 110
BELLEVUE, WA 98004

In re Application of	:	
Edward K.Y. Jung and Lowel L. Wood, Jr.	:	DECISION VACATING
Serial No.: 10/770,072	:	OFFICE ACTION
Filed: January 30,2004	:	
For: PHOTO-DETECTOR ARRAY WITH	:	
CHARGE PUMP AND CHARGE	:	
COUNTER	:	

This is a decision on the request filed on January 30, 2009 to withdraw the Office action mailed on January 2, 2009.

The request is GRANTED.

The request asserts that the Office action of January 2, 2009 was premature and should be withdrawn.

A review of the file record reveals that a decision by the Board of Patent Appeals and Interferences (Board) was issued on November 21, 2008 wherein the examiner action was affirmed in part. Pursuant to 37 C.F.R. § 41.52, the appellant has two months from this date of the Board decision to file a Request for Reconsideration/ Rehearing. The Office action of January 2, 2009 was premature because it was issued before the two-month time period under 37 C.F.R. § 41.52 expired.

The Office action of January 2, 2009 is hereby vacated. Inconvenience to the appellant is regretted. It is noted that a request for rehearing was filed on January 17, 2009. Accordingly, the application is being returned to the Board for consideration of the request for rehearing.
Any inquiry regarding this decision should be directed to Georgia Epps, Supervisory Patent Examiner, at (571) 272-2328.

Cassandra Spyrou, Acting TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Date : May 28, 2008

Patent No. :7,330,188
Inventor(s) :Solanki et al
Issued :February 12, 2008
Title :TEXTURE CACHING ARRANGEMENT FOR A COMPUTER GRAPHICS ACCELERATOR

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9390 ext. 123

John C. Carey
Patterson & Sheridan, LLP
3040 Post Oak Blvd.
Suite 1500
Houston, TX 77056-6582

/arg

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Patterson & Sheridan L.L.P. NJ Office
3040 Oak Post Road
Suite 1500
Houston, TX 77056-6582

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OFFICE OF PETITIONS

In re Patent No. 7,330,188 :
Issue Date: February 12, 2008 :
Application No. 10/770,078 : ON PETITION
Filed: February 2, 2004 :
Patentee(s): Gopal Solanski, et. al. :

This is a decision on the request under 37 CFR 3.81[1], filed February 17, 2009, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Petitioner authorizes the Office to charge $100 for the Certificate of Correction and $130 for the Request for Voluntary Publication or Republication to petitioner's credit card. Since a Request for Voluntary Publication or Republication under 37 CFR 1.221 does not apply to the above patent file, the $130 fee submitted on February 17, 2009 will be applied towards the required processing fee of the present request under 37 CFR 3.81.

Since the present request complies with the requirements of 37 CFR 3.81, the request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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David A. Levine
Levine, Bagade, Han, LLP
2483 East Bayshore Road
Suite 100
Palo Alto, CA 94303

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APR 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Gerald W. Kearby	:	
Application No. 10/770,086	:	DECISION ON PETITION
Filed: January 31, 2004	:	TO WITHDRAW
Attorney Docket No. BOM 1001-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 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 David A. Levine on behalf of all attorneys of record who are associated with customer No. 40518. All attorneys/agents associated with the Customer Number 40518 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified.

There are currently no pending office actions in this case.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Gerald W. Kearby
Back Office Music
2317 Broadway Street
Suite 250
Redwood City, CA 94063

cc: Gerald W. Kearby
530 Wur Road
Lorma Mar, CA 94021

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/770,086	01/31/2004	Gerald W. Kearby	BOM 1001 - US

CONFIRMATION NO. 9269

OC000000023286950

40518
LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO, CA 94303

Date Mailed: 04/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/06/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Kimberly Graham

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of Hadzicki et al. :
Application No. 10/770,094 : Decision on Petition
Filing Date: January 30, 2004 :
Attorney Docket No. REV-1/DIV :

This is a decision on the petition under 37 CFR 1.137(b), filed July 13, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

A *non-final* Office action was mailed June 29, 2005.

The non-final Office action set a shortened statutory period for reply of three (3) months.

Petitioner did not file a reply to the Office action. As a result, the application became abandoned as of midnight on September 30, 2005.

A Notice of Abandonment was mailed March 21, 2006.

Discussion:

A grantable petition under 37 CFR 1.137(b) must be accompanied by the required reply.

The instant petition is accompanied by an appeal brief and $250 for the filing of the appeal brief. However, Office records fail to indicate a Notice of Appeal has been filed.

Petitioner should submit a Notice of Appeal. In the alternative, petitioner may file an amendment in reply to the non-final rejection.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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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
10/770,104	02/02/2004	2681	770	678-1288 (P11242)	5	16	2

CONFIRMATION NO. 9351

CORRECTED FILING RECEIPT

OC000000014692836

28249
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

Date Mailed: 12/08/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Seung-Min Park, Seoul, KOREA, REPUBLIC OF;
Seok-Jin Kim, Yokohama, JAPAN;
In-Gon Park, Seoul, KOREA, REPUBLIC OF;
Sang-Min Hyun, Seoul, KOREA, REPUBLIC OF;
Jung-Hyeok Im, Songnam-shi, KOREA, REPUBLIC OF;
Ji-Young Lee, Jeju-shi, KOREA, REPUBLIC OF;
Sung-Kwon Kim, Seoul, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

SAMSUNG ELECTRONICS CO., LTD., GYEONGGI-DO, KOREA, REPUBLIC OF

Power of Attorney:

Paul Farrell–33494

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 9831/2003 02/17/2003

If Required, Foreign Filing License Granted: 04/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/770,104

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Scent bottle type portable wireless terminal

Preliminary Class

455

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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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of	:
Gerlach et al.	:
Serial No.: 10/770,126	: PETITION DECISION
Filed: February 3, 2004	:
Attorney Docket No.: 029310.53117US	:

This is in response to the petition under 37 CFR § 1.59(b), filed October 13, 2006, to expunge information from the above identified application.

Petitioner requests that the RCE filed on May 22, 2006 be expunged from the record as an incorrect serial number was listed on the document and was thus matched with the wrong application.

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 entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, applicants' 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

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J. NICHOLAS GROSS, ATTORNEY
2030 ADDISON ST.
SUITE 610
BERKELEY CA 94704

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OFFICE OF PETITIONS

In re Application of	:	
Gross, John N.	:	
Application No. 10/770,742	:	ON PETITION
Filed: February 2, 2004	:	
Attorney Docket No. JNG 2004-6	:	

This is a decision on the petition under 37 CFR §1.102(d), filed July 10, 2006, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3629 for expedited prosecution.

Liana Chase for
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 27 2005

TECHNOLOGY CENTER 3600

BROOKS KUSHMAN P.C./FGTL
1000 TOWN CENTER
22ND FLOOR
SOUTHFIELD MI 48075-1238

In re application of
Dennis Doyle, et al
Application No. 10/770,145
Filed: February 2, 2004
For: COMPUTER-IMPLEMENTED METHOD AND SYSTEM FOR COLLECTING AND COMMUNICATING INSPECTION INFORMATION FOR A MECHANISM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on August 29, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dcg: 9/22/06

UNITED STATES PATENT AND TRADEMARK OFFICE

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FORD GLOBAL TECHNOLOGIES, LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN, MI 48126

Mail Date: 05/03/2010

Applicant	: Dennis Doyle	: DECISION ON REQUEST FOR
Patent Number	: 7613627	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/770,145	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1552** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN LEWIS & BOCKIUS LLP/RAMBUS INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

Mail Date: 04/20/2010

Applicant	: Steven C. Woo	: DECISION ON REQUEST FOR
Patent Number	: 7599239	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/770,150	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1103** 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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MORGAN LEWIS & BOCKIUS LLP/RAMBUS INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

Mail Date: 05/17/2010

Applicant : Steven C. Woo
Patent Number : 7599239
Issue Date : 10/06/2009
Application No : 10/770,150
Filed : 02/02/2004

: 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 **1145** 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).

IFW

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/8/06

TO SPE OF : ART UNIT 3632

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/770165 Patent No.: 7029078

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: These changes were agreed upon and should have been changed in the Notice of Allowance.

Carl D. Friedman
Supervisory Patent Examiner
Group 3600

3632
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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JUL 20 2004

DCM

In re Application of	:	
Jon Day	:	
Serial Number: 10/770,179	:	PETITION UNDER
Filed: January 31, 2004	:	M.P.E.P.708.02 IV
For: BREWABLE COFFEE PRODUCT	:	

This is in response to the petition filed January 31, 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

LAW OFFICE OF BRIAN R. RAYVE
P.O Box 11586
Salt Lake City UT 84147-0586

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LAW OFFICE OF BRIAN E. RAYVE
P.O. BOX 11586
SALT LAKE CITY, UT 84147-0586

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Jon Day	:	
Application No. 10/770,179	:	
Filed: January 31, 2004	:	DECISION ON
For: BREWABLE COFEE PRODUCT	:	PETITION

This is a decision in response to the Petition to Withdraw Holding of Abandonment Based on Failure to Receive Amendment, filed September 22, 2005. 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 to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly respond to the non-final Office action, mailed October 29, 2004. The Notice set a three (3) month period for reply. No response having been received, the application became abandoned on January 30, 2005. A Notice of Abandonment was mailed June 14, 2005.

Petition under 37 CFR 1.181

Applicable Law, Rules and MPEP

The MPEP 711.03(c)C, Treatment of Untimely Petition To Withdraw Holding of Abandonment, explains that

> 37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2

> months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Since the instant petition was not filed within 2 months of the mail date of the Notice of Abandonment, the petition is untimely and is therefore dismissed.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LAW OFFICE OF BRIAN R. RAYVE
P.O Box 11586
Salt Lake City, UT 84147-0586

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MAR 30 2007
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In re Application of	:	
Jon Day	:	
Application No.: 10/770179	:	ON PETITION
Filing or 371(c) Date: 01/31/2004	:	
Attorney Docket Number:	:	
031-1-001	:	

This is a decision on the Petition for Revival of Unintentionally Abandoned Patent Application, filed January 3, 2006. The petition is properly treated under 37 CFR 1.137(b). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed October 29, 2004. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on January 30, 2005. A Notice of Abandonment was mailed June 14, 2005.

Applicant filed a petition to withdraw the holding of abandonment and an amendment in response to the Office action on September 22, 2005; however, the petition was dismissed in a Decision mailed January 9, 2006, for failing to meet the requirements of a grantable petition under 37 CFR 1.181.

The instant petition

Applicant files the present petition to revive and fee. An amendment in response to the Office action was filed on September 22, 2005. Accordingly, the petition is granted.

Office records reveal the Decision dismissing the September 22, 2005 petition, mailed from this Office on January 9, 2006, was returned to this Office by the United States Postal Service ("USPS") on January 17, 200.

Office records also indicate a discrepancy in the correspondence address of record, listed as Salt Lake City, Utah, and the address information included in the remarks filed with the amendment: Park City, Utah. The Office or Enrollment and Discipline also have Applicant's address as a park City, Utah address. The application file does not indicate a change of address has been filed in this case. Applicant should ensure that the correspondence address of records is a correct correspondence address. The MPEP states that "[w]here an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). See 37 CFR 11.11. The notification should also include his or her telephone number. MPEP 601.03. 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.

This application is being referred to Technology Center Art Unit 1761 for processing of the Amendment filed on September 22, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: BRIAN R. RAYVE
161 MAPLE DRIVE
PARK CITY, UT 84098

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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI LLP
20333 Tomball Parkway
SUITE 600
HOUSTON, TX 77070

Mail Date: 04/20/2010

Applicant	: Hyeonkuk Jeong	: DECISION ON REQUEST FOR
Patent Number	: 7653719	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/770,181	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1729** 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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Allen, Dyer, Doppelt, Milbrath &
Gilchrist, PA
P.O. Box 3791
Orlando, FL 32802-3791

MAILED
FROM DIRECTORS OFFICE
OCT 27 2004
TECHNOLOGY CENTER 3600

In re application of
Thomas A. DeBusk
Application No. 10/770,184
Filed: February 2, 2004
For: PLANT BIOMASS MANAGEMENT SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)

This is a decision on the petition filed February 2, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section V: Environmental Quality.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition includes a declaration by applicant's agent, Jacqueline E. Hartt, Ph.D. Ms. Hartt states that "(t)he system and method of the present invention is directed to the management and control of suspended and filamentous algae, excess nutrients, hydrocarbons, pathogens, and other contaminants in fresh water bodies and estuaries, including natural and manmade bodies of water such as waste stabilization ponds." The declaration goes on to describe "(a) method for managing plant biomass in a wetland containing floating macrophytes".

For the above stated reasons, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/rwg: 10/20/04

SPE: D. Smith

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/16/06

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/770,184 Patent No.: 7074330

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: OK

DUANE SMITH
SUPERVISORY PATENT EXAMINER

SPE — 1724 Art Unit

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

Mail Date: 06/03/2010

Applicant	: Steve J. Shattil	: DECISION ON REQUEST FOR
Patent Number	: 7639597	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/770,202	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1702** 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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WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

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NOV 16 2004

OFFICE OF PETITIONS

In re Application of	:	
Walker et al.	:	DECISION GRANTING
Application No. 10/770,231	:	PETITION UNDER
Filed: February 2, 2004	:	37 CFR 1.47(a)
Attorney Docket No. 03-063	:	

This is in response to the petition under 37 CFR 1.47(a), filed October 27, 2004.

The petition is granted.

Petitioner has shown that Thomas M. Sparico, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to Technology Center Art Unit 3711 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/01/06

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/770233** Patent No.: **7009444**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

A. Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE 2816 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Tyco International LTD
Ip Legal Department
One Town Center Road
BOCA RATON, FL 33486

Mail Date: 04/21/2010

Applicant	: Joseph D. Farley	: DECISION ON REQUEST FOR
Patent Number	: 7570672	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/770,249	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1569** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE NM 87102

MAILED

JUN 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael J. Halliday	:	
Application No. 10/770,251	:	DECISION ON PETITION
Filed: December 2, 2004	:	
Attorney Docket No. 31571-1001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before February 8, 2010, as required by the Notice of Allowability mailed November 6, 2009. Accordingly, the date of abandonment of this application is February 9, 2010. A Notice of Abandonment was mailed March 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Corrected Drawings; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

The file is now being forwarded to Technology Center 3635 for consideration and review of the Response To Rule 312 Communication filed with the instant petition.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petition

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060711

DATE : July 11, 2006

TO SPE OF : ART UNIT 2859

SUBJECT : Request for Certificate of Correction on Patent No.: 6,948,259

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:

The examiner of record has reviewed the case and all changes are approved regarding the Certificate of Correction request filed on November 25, 2005.

Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

SPE: Diego Gutierrez **Art Unit** 2859

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/26/09

TO SPE OF : ART UNIT 3764

SUBJECT : Request for Certificate of Correction for Appl. No 10/770,273 No.: 7,482,050

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)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

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: _____

Exmr, /Lori Baker/ AU 3764 SPE LoAn Thanh

SPE **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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JUDY JARECKI-BLACK; PH.D., J.D.
3239 SATELLITE BLVD. 3RD FLOOR
DULUTH, GA 30096

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MAR 2 1 2005

OFFICE OF PETITIONS

In re Application of
Marquess
Application No. 10/770,307
Filed: February 2, 2004
Attorney Docket No. MER 03-014

Decision on Petition

This is a decision on the petition filed November 19, 2004, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that page 104 of the specification was part of the originally filed application.

The application was filed on February 2, 2004. On October 26, 2004, a Notice was mailed stating that page 104 of the specification did not appear to be included as part of the application filed.

The present petition alleges that page 104 was deposited on February 2, 2004. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 120 pages of "Specification (Including claims and abstract)" on February 2, 2004.[1]

The USPTO file for this application includes only 119 pages of specification, including claims and abstract. The file does not contain page 104 of the specification. Based on the evidence submitted, the Office concludes the missing page was part of the application but was later misplaced. Therefore, the petition is **granted**.

The $130 submitted for the petition will be credited back to petitioner's deposit account.

The Notice mailed October 26, 2004, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 2, 2004, using the application papers filed on February 2, 2004, and the copy of page 104 of the specification filed on November 19, 2004.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card 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 post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

UNITED STATES PATENT AND TRADEMARK OFFICE

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RICHES, MCKENZIE & HERBERT, LLP
SUITE 1800
2 BLOOR STREET EAST
TORONTO ON M4W 3J5 CA CANADA

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DEC 16 2008

In re Application of	:	
Marquess	:	
Application No. 10/770,307	:	DECISION ON PETITION
Filed: February 2, 2004	:	
Attorney Docket No. MER 03-014	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 17, 2008, to revive the above-identified application. The petition submitted by practitioner is not properly signed within the meaning of 37 CFR 1.33(b). Nonetheless, the paper properly signed and submitted by the inventor complies fully with the requirements of 37 CFR 1.33(b) and 1.137(b).

In view thereof, the petition is **GRANTED**.

The application became abandoned September 8, 2006 for failure to timely submit a proper reply to the Notice mailed August 7, 2006. The Notice set a one month shortened statutory period of time for reply. No petition for extension of time was requested. Notice of Abandonment was mailed July 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply to the Notice, (2) the required petition fee, and (3) an adequate statement of unintentional delay. It is noted that 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Technology Center AU 1634 for appropriate action by the Examiner.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

In re Application of: Jeffrey R. FREEMAN)
Application No. 10/770,308)
Filed: February 2, 2004)
For: PACKAGE LOCATION SYSTEM)
)

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND MPEP § 708.02 (I): MANUFACTURE

This is a decision on the petition, filed February 2, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(I): Manufacture, to make the above-identified application special.

In compliance with M.P.E.P. § 708.02(I), the petition must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(I)(2) and a statement by the applicant, assignee or attorney/agent registered to practice before the Office alleging:

(A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted.

If the prospective manufacturer is an individual, there must be a corroborating affidavit from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;

(B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;

(C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition meets the requirements set out above. Accordingly, the petition is **GRANTED.**

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

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FEB 06 2007

OFFICE OF PETITIONS

In re Patent No. 6,896,564 :
Issue Date: 05-24-2005 : NOTICE
Application No. 10/770,320 :
Filed: 02-02-2004 :
Attorney Docket No. 2373/110 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed September 22, 2006.

37 CFR 1.28(c) states: "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 Notice is not intended to imply that the USPTO conducted any investigation of this matter.

The application file is being forwarded to Files Repository.

Telephone inquiries concerning this Notice may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

GENE D. FLEISCHHAUER
Attorney at Law
16 River Road
North Haven, CT 06473

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OCT 07 2004

OFFICE OF PETITIONS

In re Application of :
Dube, et al. :
Application No. 10/770,322 : ON PETITION
Filed: January 31, 2004 :
Attorney Docket No.: EH-10901 :
:

This is a decision on the petition filed August 23, 2004, requesting that the above-identified application be accorded a filing date of January 31, 2004 and acknowledgement that Figure 7 was present upon submission of the application.

The petition is **DISMISSED**.

The application was deposited on January 31, 2004. However, on June 16, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice") indicating, *inter alia*, that the application had been accorded a filing date but that Figure 7 described in the specification appeared to have been omitted from the application.

The Notice permitted applicant to either: (1) promptly establish prior receipt in the PTO of the omitted items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the items in question were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items 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 (37 CFR 1.181(f)).

Petitioners argue that a complete copy of the application, including Figure 7, was filed on January 31, 2004. Petitioners further argue that petitioners' attorney "labeled separate envelopes with the docket numbers, personally placed copies of each specification and all figures with an unsigned declaration in the associated separated envelope, and placed the three envelopes in the same Express Mail Envelope. The envelopes were then removed and the completeness of the application and the figures was once again reviewed prior to sealing each of the individual envelopes prior to placing the envelopes in the Express Mail Envelope." Petitioners have not submitted a copy of Figure 7 as filed allegedly on January 31, 2004.

The arguments advanced by petitioners have been considered, but are not persuasive. The USPTO file is the official record of the papers originally filed in this application. 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. A review of the official file reveals that 10 sheets of drawings were received on January 31, 2004. The USPTO file indicates that Figure 7 was not among the papers received on January 31, 2004.

The statements of petitioners' attorney rely upon the recall of routine events that occurred nearly seven months earlier and are not more persuasive than the record of what was filed as shown in the official file. Accordingly, the fact that petitioners' attorney believes Figure 7 was among the papers filed is not more persuasive than the actual papers shown to have been received by the official file.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt that itemizes and properly identifies the papers that are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503). Petitioners, however, acknowledge that a return postcard was not utilized.

Petitioners further contend that the instant application, including Figure 7, is entitled to a filing date of January 31,

2004 because it has been amended to claim priority to earlier filed applications.

Petitioners are advised that a claim of priority would not entitle the instant application to a filing date of January 31, 2004 with Figure 7 as part of the original disclosure as petitioners have not established by a preponderance of the evidence that the application papers submitted that day included Figure 7.

As the relief requested by petition has been dismissed, petitioners are advised that the instant application is being returned to the Office of Initial Patent Examination with a filing date of January 31, 2004 without entry of Figure 7 as part of the disclosure. Petitioners are advised to promptly submit a preliminary amendment to amend the specification and the drawings to cancel reference to Figure 7 prior to the issuance of the first Office action on the merits.

Any petition for reconsideration of this decision must be submitted within **TWO (2) MONTHS** of the mail date of this decision. If petitioners desire to have Figure 7 entered into the record, a petition for reconsideration requesting the later filing date of August 23, 2004 (date of submission of the omitted figure) and entry of Figure 7 must be submitted within **TWO (2) MONTHS** of the mail date of this decision. The time period for requesting reconsideration may not be extended pursuant to 37 CFR 1.136. (37 CFR 1.181(f))

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand or delivery: service(FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 220 20th Street S. Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

This application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of January 31, 2004 without entry of Figure 7.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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CHRISTENSEN, O'CONNOR,
JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

COPY MAILED
JUN 30 2004
OFFICE OF PETITIONS

In re Application of: :
Wyzgala et al. :
Application No. 10/770,336 : LETTER
Filed: February 20, 2004 :
Title of Invention: :
EXPANDABLE ABLATION BURR :

This is in response to the correspondence filed February 20, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

Applicant is given TWO (2) MONTHS from the mailing date of this letter to reply, correcting the below-noted deficiencies. Any reply should be addressed to petitions Attorney Derek L. Woods. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on February 20, 2004, and included copies of the Combined Declaration and Power of Attorney and Request for Reconsideration of Petition Under 37 CFR 1.47(a) filed in application serial number 09/629,771, of which the above-identified application is a continuation. The copies of the Combined Declaration and Power of Attorney and Request for Reconsideration of Petition Under 37 CFR 1.47(a) filed in application serial number 09/629,771, are treated as a petition under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

Under 37 CFR 1.63(d), a newly executed oath or declaration is not required in a continuation or divisional application, provided that (1) The prior application contained an oath or declaration as prescribed by 37 CFR 1.63(a) - (c); (2) the continuation or divisional application was filed by all or by fewer than all of the inventors named in the prior application;

(3) the specification and drawings filed in the continuation or divisional application contain no new, and (4) a copy of the executed oath or declaration filed in the prior application, showing the signature, or an indication thereon that it was signed, is submitted for the continuation or divisional application.

Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under 37 CFR 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by a copy of the decision granting a petition to accord rule 47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under rule 47. See 37 CFR 1.63(d)(3)(i)

Applicant has failed to file a copy of the decision granting a petition to accord rule 47 status to the prior application. A decision on the correspondence will be held in abeyance for a period of two months from the mail date of this letter to await a reply to this letter. No extensions of this time period are available.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

CHRISTENSEN, O'CONNOR,
JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

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NOV 23 2004
OFFICE OF PETITIONS

In re Application of: :
Wyzgala et al. :
Application No. 10/770,336 : LETTER
Filed: February 20, 2004 :
Title of Invention: :
EXPANDABLE ABLATION BURR :

This is in response to the correspondence filed August 23, 2004, wherein applicant filed a copy of a rule 47 petition granted in application No. 09/629,771, in response to a Letter regarding rule 47 status in the above-identified application.

Rule 47 status is hereby **GRANTED**.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 09/629,771, filed on July 31, 2000, of which the instant filing is a continuation application.

Furthermore, a copy of the decision, mailed June 6, 2002, granting a petition to accord § 1.47(a) status to the prior application has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status. No petition is necessary to accord Rule 1.47(a) status in this application.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this divisional application.

Because this is an image file wrapper ("IFW") file, an electronic message will be forwarded to Technology Center 3732 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 06 2009

OFFICE OF PETITIONS

PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

In re Application of	:	
Abraham et al.	:	DECISION ON PETITION
Application No. 10/770,342	:	TO WITHDRAW
Filed: February 2, 2004	:	FROM RECORD
Attorney Docket No. 9746-104US	:	

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 23, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Clark A. Jablon on behalf of all the attorneys of record associated with Customer No. 00570.

All attorneys/agents associated with the Customer Number 00570 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 March 12, 2009 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Alicia Kelley at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: SATIUS, INC.
C/O CHARLES ABRAHAM, CEO
P.O. BOX 731
CLARKSVILLE, MD 21029

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/770,342	02/02/2004	Charles Abraham	

CONFIRMATION NO. 8283

POWER OF ATTORNEY NOTICE

570
PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

OC000000035339556

Date Mailed: 04/03/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/23/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/sdbrinkley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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SATIUS INC. & SATIUS MOLDING INC.
P.O. BOX 731
CLARKSVILLE, MD 21029

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APR 0 3 2009

OFFICE OF PETITIONS

In re Application of Abraham et al. Application No. 10/770,342 Filed: February 2, 2004 Attorney Docket No. 9746-104US	:	DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed February 17, 2009.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a statement under § 3.73(b) [1] is required.

It is noted that the request is signed by one of the joint inventors, without a showing of sufficient cause and payment of the $130 petition fee. Accordingly, the request is not approved because it is not signed by all the inventors or the assignee of the entire interest.

All future communications from the Office will continue to be directed to the address of record until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at 571-272- 6059.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090408

DATE : April 08, 2009

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 6909021

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:

This is a response to the certificiate of correction filed 3/31/09, which was filed to correct a typographical error in the request for C of C filed 12/16/05 and supercedes the 12/16/05 request for C of C.

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

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STREETS & STEELE
13831 NORTHWEST FREEWAY
SUITE 355
HOUSTON TX 77040

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In re Application of Carl E. WHITCOMB Application No. 10/770,352 Filed: February 02, 2004 Attorney Docket No. WHIT/0002.A	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 05, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of June 13, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 14, 2008. *See* MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the decision of June 13, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 3643 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petition

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,353	02/02/2004	Ganapathy Krishnan	32052-9447US4	7666

25096 7590 03/24/2010
PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

EXAMINER
WINTER, JOHN M

ART UNIT	PAPER NUMBER
3685	

NOTIFICATION DATE	DELIVERY MODE
03/24/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentprocurement@perkinscoie.com
skempe@perkinscoie.com

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MAR 23 2010

Perkins Coie LLP
Patent-Sea
P.O. Box 1247
Seattle, WA 98111-1247

In re Application of Ganapathy Krishnan et al. Application No. 10/770,353 Filed: February 2, 2004 For: METHOD AND SYSTEM FOR SECURELY INCORPORATING ELECTRONIC INFORMATION INTO AN ONLINE PURCHASING APPLICATION	: : : : : : :	RESPONSE TO PETITION TO EXPUNGE FILED UNDER 37 CFR 1.59(b)

This is a response to the ten (10) petitions under 37 CFR 1.59(b), filed on March 10, 2010 to expunge information from the above identified application.

The decision on the petitions will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that items contained on 10 separate Information Disclosure Statements (IDS) be expunged from the record if not found to be material to the patentability of the application. The proprietary document was filed in accordance to MPEP § 724. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

In the meantime, the document will be closed whereby any non-Patent and Trademark Office personnel will be precluded from viewing or having access to the document, such as via public PAIR.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

SM/sm: 3/16/10

SM

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
James F. Zucherman et al.	:	
Application No. 10/770,372	:	DECISION ON PETITION
Filed: February 2, 2004	:	TO WITHDRAW
Attorney Docket No. 5910-167	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2007.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on December 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 Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Coats & Bennett/Medtronics**
1400 Crescent Green
Suite 300
Cary, NC 27518

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Application of: Nakayama, et al.
Application No. 10/770,375
Filed: February 3, 2004
For: STORAGE SYSTEM AND STORAGE DEVICE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed December 22, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed December 22, 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). Specifically, 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. It is noted that independent claim 10 differs in scope from the discussion presented in the petition with respect to independent claims 1, 15 and 19, specifically regarding the plurality of different sorts of storage device systems being mixed with each other, and support functions thereof related to data input/out operations being different from each other.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

SDL: 03/04/05

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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TECHNOLOGY CENTER 2100

In re Application of: Nakayama, et al.
Application No. 10/770,375
Filed: February 3, 2004
For: STORAGE SYSTEM AND STORAGE DEVICE 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 May 9, 2005 (supplemental filed on June 17, 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 December 22, 2004, and dismissed on March 9, 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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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 06/25/2010

Applicant	: Silvano Gai	: DECISION ON REQUEST FOR
Patent Number	: 7640287	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/770,383	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1463** 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.:20070314

DATE : March 14, 2007

TO SPE OF : ART UNIT 2837

SN: 10770398

SUBJECT : Request for Certificate of Correction on Patent No.: ~~7119505~~ Ok

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:

LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER **Art Unit** 2837

SPE:

PTOL-306 (Rev. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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TECHNOLOGY CENTER 2600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re Application of	:	
Adam Leslie Clark	:	
Application No. 10/770,432	:	DECISION ON PETITION
Filed: February 2, 2004	:	TO MAKE SPECIAL
For: DATA ENCODING USING MULTI-DIMENSIONAL REDUNDANCIES	:	

This is a decision on the petition filed August 6, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
571-272-2986

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STEIN MCEWEN, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

Mail Date: 06/18/2010

Applicant	: Seok-Jong Lee	: DECISION ON REQUEST FOR
Patent Number	: 7632578	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/770,445	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **631** 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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(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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OFFICE OF PETITIONS

In re Application of	:	
Berglow et al.	:	
Application No. 10/770,513	:	DECISION ON PETITION
Filed: 4 February, 2004	:	
Atty Docket No. 024445-448	:	

This is a decision on the petition filed on 26 October, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned on 11 September, 2005, for failure to timely pay the issue and publication fees as required by the Notice of Allowance and Issue Fee Due mailed on 10 June, 2005. The filing of the present petition precedes the mailing of Notice of Abandonment.

The change of correspondence address filed on 26 October, 2005, cannot be accepted because it was not signed by an attorney of record.[2] There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cf: Ronald L. Grudziecki
1500 K Street, N.W.
Suite 1100
Washington DC 20005

[2] See MPEP §§ 601.03 and 405.

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Mail Date: 07/02/2010

Applicant	: Yoshimichi Kudo	: DECISION ON REQUEST FOR
Patent Number	: 7644265	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/770,519	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1078** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Date Mailed: March 10, 2008

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

Applicant: Kikkawa et al.
Appl. No.: 10/770,553
Filing Date: February 4, 2004
Title: STREAMING CONTENT RECEIVING APPARATUS AND PLAYBACK APPARATUS
Attorney Docket No.: 00862.023443
Pub. No.: US 2004/0179811 A1
Pub. Date: September 16, 2004

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on February 29, 2008, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office 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.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests 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

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Program & Management Analyst
Office of Data Management

Adjustment date: 03/10/2008 KKING1
02/29/2008 INTEFSW 00008050 503939 10770553
01 FC:1504 300.00 CR

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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

Applicant: Deleersnijder et al.
Appl. No.: 10/770,583
Filing Date: February 4, 2004
Title: NOVEL HUMAN G-PROTEIN COUPLED RECEPTOR
Attorney Docket No.: 01975-0034-01000
Pub. No.: US 2004/0175796 A1
Pub. Date: September 9, 2004

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on November 4, 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 "Baarn" is misprinted as "Baam" in claims 1, 3, 4, 9, 17, 18, 23 and 37, "amino acid sequence" is misprinted as "amino add sequence" in claims 9 and 37, "neuromedin U-8" is misprinted as "neuromedin U8" in claim 19 and "EC_{50}=-6" is misprinted as "EC_{50}=-9" in claim 39.

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 "Baarn" is misprinted as "Baam" in claims 1, 3, 4, 9, 17, 18, 23 and 37 are not Office errors as the text in the claims appears to be "Baam." The error noted by requestor wherein "EC_{50}=-6" is misprinted as "EC_{50}=-9" in claim 39 will not be corrected as requested by applicant as the text is in such a poor quality that the error is due to the poor quality of the text, as the text is blurry and the symbols and letters overlap each other. The errors noted by requestor wherein "amino acid sequence" is misprinted as "amino add sequence" in claims 9 and 37 and the phrase "binding for neuromedin U, preferably for neuromedin U-8, for neuromedin U-23 and/or for neuromedin U-25" is misprinted as "binding for neuromedin U, preferably for neuromedin U8, for neuromedin U-23 and/or for neuromedin U-25" in claim 19

[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).

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. 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 publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The errors in this published application may be due in part to the poor quality of the text in the application. While most of the text is legible, the text is not clear, as some of the text is blurry and the overlaps each other. Furthermore, other text in the application is also not clear, as some of the letters, numerals and symbols are very small and incomplete. Applicant is advised that he or she may want to file application papers that are clearer, as the error may be due to the quality of the text.

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: 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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Gwilym Attwell
Fish & Richardson
222 Delaware Avenue, 17th Floor
Wilmington, DE 19899-1114

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MAR 01 2010

In re Patent of Fedorkin et al.	:	DECISION ON APPLICATION
Patent No. 7,491,509	:	FOR RECONSIDERATION OF
Issue Date: February 17, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/770,600	:	AND NOTICE OF INTENT TO
Filing Date: February 3, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. 24990-0005001	:	CORRECTION

This is a decision on the petition filed on April 16, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred sixty (560) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred sixty (560) days is **GRANTED to the extent indicated herein**.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

Issue #1

The first issue in this case is the amount of Office delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"). Patentees assert the amount of B Delay is 213 days.

The application was filed February 3, 2004. A request for continued examination ("RCE") was filed September 4, 2007.

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 began on February 4, 2007, and ended on September 3, 2007, *the day before* the RCE was filed, and is 212 (not 213) days. See 35 U.S.C. § 154(b)(1)(B)(i).

Issue #2

The second issue in this case is the extent to which the Office should have increased the patent term adjustment as a result of B Delay when issuing the patent.

When issuing the patent, the Office increased the patent term adjustment by 110 days for B Delay. Patentees contend the Office should have increased the patent term adjustment by 213 days.

With respect to the period of adjustment for the Office taking in excess of three years to issue the patent, 35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of A Delay and B Delay to the extent such periods of delay are not overlapping. In this case, the periods of A Delay and B Delay do not overlap. Therefore, the patent term adjustment should have been increased by 212 days, the amount of B delay, instead of by 110 days.

Issue #3

The third issue in this case is the extent to which the amount of Applicant Delay should have been increased pursuant to 37 C.F.R. § 1.704(b) as a result of delay in the filing of a reply to the Notice to File Missing Parts mailed on September 2, 2004.

The Office mailed a Notice to File Missing Parts on May 12, 2004. Patentees filed a reply to the Notice to File Missing Parts on September, 2, 2004. The Office notes patentees correctly assert the Office incorrectly entered the filing date of the September 2, 2004 reply as August 31, 2004.

37 C.F.R. § 1.704(b) provides for a reduction when a party takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request. Specifically, 37 C.F.R. § 1.704(b) states,

> [A]n 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. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

The Office entered a reduction of 19 days pursuant to 37 C.F.R. § 1.704(b) for the "August 31, 2004" reply to the Notice to File Missing Parts. Patentees assert the proper amount of reduction should have been 21 days because the reply was not actually filed until September 2, 2004.

An applicant is not required to supply all items listed in a Notice to File Missing Items on the same date. For example, if the Notice indicates a fee and declaration must be filed, a party may file the file and the declaration on different dates as long as both submissions are timely. If missing items are submitted on different date, the last date of submission will be used when determining the date a reply to the Notice was filed when determining the proper amount of a reduction in patent term adjustment under 37 C.F.R. § 1.704(b). In this case, the September 2, 2004 reply did not include all of the missing items. Specifically, the September 2, 2004 papers did not include a sequence listing and related items. The sequence listing and related items were not filed until September 15, 2004, three months and 34 days after the Office mailed the Notice to File Missing Items. Therefore, the Office should have entered a 34-day reduction, instead of a 19-day reduction, for Applicant Delay under 37 C.F.R. § 1.704(b) when responding to the Notice to File Missing Parts.

Issue #4

The fourth issue in this case is the extent to which the total amount of Applicant Delay should have been increased under 37 C.F.R. § 1.704(b) as a result of delay in the filing of a reply to the non-final Office action mailed September 11, 2006.

Patentees did not file a reply to the September 11, 2006 Office action until March 16, 2007. The Office did not enter a reduction under 37 C.F.R. § 1.704(b) as a result of delay in the filing of a reply to the September 11, 2006 Office action. Patentees assert a reduction of 95 days under 37 C.F.R. § 1.704(b) appears appropriate for delay in the filing of a reply to the September 11, 2006 Office action.

The time period beginning on the day after the date three months after the Office issued the non-final Office action, September 12, 2006, until the date a reply was filed in response to the non-final Office action, March 16, 2007, is 95 days. Therefore, a 95-day reduction should have been entered under 37 C.F.R. § 1.704(b) for delay in the filing of a reply to the September 11, 2006 Office action.

Issue #5

The fifth issue in this case is the extent to which the total amount of Applicant Delay should have been increased pursuant to 37 C.F.R. § 1.704(b) as a result of delay in the filing of a reply to the Notice of Allowance mailed May 31, 2007.

The Office mailed a Notice of Allowance on May 31, 2007. A RCE and Information Disclosure Statement ("IDS") were filed September 4, 2007. The Office did not enter a reduction under 37 C.F.R. § 1.704(b) as a result of delay in the filing of a reply to the May 31, 2007 Notice of Allowance.

The time period beginning on the day after the date three months after the Office issued the Notice of Allowance, September 1, 2007, until the date a reply was filed in response to the Notice of Allowance, September 4, 2007, is 4 days. Therefore, a 4-day reduction should have

been entered under 37 C.F.R. § 1.704(b) for delay in the filing of a reply to the May 31, 2007 Notice of Allowance.

Conclusion

The amount of A Delay is 336 days.

The amount of B Delay is 212 days.

The amount of overlapping days between A Delay and B Delay is 0 days.

The calculation of patent term adjustment on the patent was based on a total of 88 days of Applicant Delay. The record indicates Applicant Delay should be increased from 88 days to 202 days for the following reasons:

(1) The Office should have entered a 34-day reduction, instead of a 19-day reduction, for Applicant Delay under 37 C.F.R. § 1.704(b) when responding to the May 12, 2004 Notice to File Missing Parts;
(2) The Office should have entered a 95-day reduction, instead of no reduction, for Applicant Delay under 37 C.F.R. § 1.704(b) when responding to the September 12, 2006 non-final Office action; and
(3) The Office should have entered a 4-day reduction, instead of no reduction, for Applicant Delay under 37 C.F.R. § 1.704(b) when responding to the May 31, 2007 Notice of Allowance.

In view of the prior discussion, the patent term adjustment is 346 days (548 days of Office Delay reduced by 202 days of Applicant Delay).

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

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 **three hundred forty-six (346)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,491,509 B2
ISSUE DATE	:	February 17, 2009
INVENTOR(S)	:	Fedorkin 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 358 days.

Delete the phrase "by 358 days" and insert - by 346 days--

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VENTURE PACIFIC LAW, PC
5201 GREAT AMERICA PARKWAY, SUITE 270
SANTA CLARA, CA 95054

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In re Application of Xi Shen, et al. Application No. 10/770,630 Filed: February 2, 2004 Attorney Docket No. BYD-02	: : : : :	ON PETITION

This is a decision in response to the petition, filed September 17, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 30, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 31, 2007. A Notice of Abandonment was mailed on June 1, 2007. On September 17, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1745 for appropriate action by the Examiner in the normal course of business on the response filed September 17, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/770,643	02/02/2004	2817	770	64272/00012	8	20	3

CONFIRMATION NO. 1615

CORRECTED FILING RECEIPT

OC000000012910909

23380
TUCKER, ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1475

Date Mailed: 06/09/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Masao Kaizuka, San Jose, CA;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/647,929 08/26/2003

Foreign Applications

If Required, Foreign Filing License Granted: 05/01/2004

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Spread spectrum clock generator

Preliminary Class

331

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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APR 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Nania et al.	:	DECISION ON PETITION
Application No. 10/770,670	:	
Filed: 02/02/2004	:	
Atty Docket No. HYP-3	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 8 January, 2007, to revive the above-identified application. This is also a communication in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 8 January, 2007.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition under 37 CFR 1.137(b) is **DISMISSED**.

The petition under 37 CFR 1.28(c) is **GRANTED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 3 March, 2005, for failure to file a timely reply to the final Office action mailed on 2 December, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were filed in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 15 June, 2005.

The petition lacks the required reply. The only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance. The examiner has determined that the amendment filed on 8 January, 2007, does not place the case in *prima facie* condition for allowance.

Submission Under 37 CFR 1.28(c)

37 CFR 1.28(c) states, "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."

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**.

Small entity status will no longer apply.

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
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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GARRETT & DUNNER LLP
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MAY 25 2007

OFFICE OF PETITIONS

In re Application of	:	CORRECTED
Nania et al.	:	DECISION ON PETITION
Application No. 10/770,670	:	
Filed: 02/02/2004	:	
Atty Docket No. HYP-3	:	

This is a corrected decision on the petition under 37 CFR 1.137(b),[1] filed on 8 January, 2007, to revive the above-identified application.

The petition is **GRANTED**.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This application became abandoned on 3 March, 2005, for failure to file a timely reply to the final Office action mailed on 2 December, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were filed in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 15 June, 2006. The petition was dismissed on 17 April, 2007, as the examiner initially determined the response filed on 8 January, 2007, was not a proper response to the final Office action mailed on 2 December, 2005.

Upon further review, a Notice of Allowance and Fee(s) Due and a Notice of Allowability were mailed on 21 May, 2007. As such, the amendment has now been determined to place the application in condition for allowance, and the petition may be favorably considered.

The application has been restored to pending status, and the petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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Snell & Wilmer L.L.P. (AMEX)
ONE ARIZONA CENTER
400 E. VAN BUREN STREET
PHOENIX, AZ 85004-2202

Mail Date: 04/23/2010

Applicant	: Maria Nastacio	: DECISION ON REQUEST FOR
Patent Number	: 7644013	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/770,684	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1390** 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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PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO CA 94111

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APR 20 2005

OFFICE OF PETITIONS

Applicant: Pinto et al.
Appl. No.: 10/770,696
Filing Date: February 2, 2004
Title: TECHNIQUES OF MODIFYING IMAGE FIELD DATA BY EXTRAPOLATION
Attorney Docket No.: ZRAN.0660US0
Pub. No.: US 2005/0041806 A1
Pub. Date: February 24, 2005

This is in response to the Request for Corrected Publication under 37 CFR 1.221(b), which was received on March 31, 2005.

The request is DISMISSED.

The instant request is that the patent application publication, which published on February 24, 2005, be republished because the publication includes a material error in that it did not include the preliminary amendment to the title, which was filed on September 23, 2004.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The patent application publication does not include a mistake in the publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a)[2], which says the following, in part:

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

[2] Changes to Suport Implementation of the United States Patent and Trademark Office 2st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun.

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office has recently changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until this past year, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004). The applicant did not supply a copy of the application in compliance with § 1.215(c). The Office correctly published the application in accordance with § 1.215(a). To amend the title or make other changes to bibliographic data after filing the application, applicant should submit the amendment and then make a request for a corrected Filing Receipt.

Applicant's request for a corrected patent application publication on March 31, 2005, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The application will be examined in due course.

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Lev Korzinov	: DECISION ON REQUEST FOR
Patent Number	: 7587237	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/770,702	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **487** 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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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	10/770,715
	Filing Date	February 2, 2004
	First Named Inventor	James W. Dibble, et al
	Art Unit	1761
	Examiner Name	TBA
	Attorney Docket No.	4517-4003

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the attorneys/agents of record.
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☒ the attorneys/agents associated with Customer Number 27123

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:

The client has retained new counsel and requested that we transfer all of the matters previously handled by Morgan & Finnegan, LLP to King & Spalding, LLP.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to: Kenneth H. Sonnenfeld, Esq.

☐ The address associated with Customer Number: ☐

or

☒ Firm or Individual Name	King & Spalding, LLP		
Address	1185 Avenue of the Americas		
City	New York	State New York	Zip 10036-4003
Country	USA		
Telephone	212 556 2100	Email ksonnenfeld@kslaw.com	
Signature	Richard C. Komson		
Name	Richard C. Komson	Registration No.	27,913
Date:	October 12, 2006	Telephone No.	212 415 8700

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.

Approved
11-29-06 Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700

1023643 v1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/28/07

Paper No.: ____

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/770715 Patent No.: 7166313 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Not approved - amendment to claim 1 or claim 25. The original amendment to claim 1, made the claim allowable. The amendment to claim 25 does not make sense.

SPE

1761
Art Unit

Docket No. **13697-105016** **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Dibble et al.

Confirmation No. 2279

Patent No.: 7,166,313

Examiner: Helen Pratt

Issue Date: January 23, 2007

For: Calcium Fortification of Bread Dough

PO Box: Certificate of Corrections Branch

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT

Sir:

Applicants hereby attach Form PTO/SB/44 for the above identified Patent which contains the following correctable errors:

Title Page, Item [12], Line 2, "Diddle et al." should read --Dibble et al.--

Title Page, Item [75], Inventors, Line 1, "James W. Diddle" should read --James W. Dibble--

Title Page, Item [75], Inventors, Line 2, "Llyod" should read --Lloyd--

Title Page, Item [74], Attorney, Agent, or Firm, "Morgan & Finnegan, LLP" should read --King & Spalding LLP--

Claim 1, lines 39-40, please delete "(a) mixture of dough ingredients and"

Claim 25, line 64, after "calcium", insert --comprising--

Applicants respectfully request that a Certificate of Correction be issued in the above identified Patent.

Respectfully Submitted,
KING & SPALDING LLP

Dated: March 8, 2007

Jonathan D. Ball
Registration No. 59,928

King and Spalding LLP
1185 Avenue of the Americas
New York, NY 10036
212-556-2100 Telephone
212-556-2222 Facsimile

836611 v1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/28/07

Paper No.: _____

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/770715 Patent No.: 7166313 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Attorney called 9-20-07 and explained the changes. The Examiner agreed with the changes.

SPE

1761
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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OCT 28 2004

OFFICE OF PETITIONS

In re Application of	:
Rubino, et al.	: DECISION GRANTING STATUS
Application No. 10/770,719	: UNDER 37 CFR 1.47(a)
Filed: February 3, 2004	:
Atty. Dkt. No.: OIC-PT024.1	:
For: RUGGEDIZED OPTICAL FIBER	:
REARRANGEMENT DEVICE	:

This decision is in response to the petition under 37 CFR 1.47(a), filed September 28, 2004.

The petition is **GRANTED**.

Petitioner has shown that inventor Robert A. Rubino has refused to execute the declaration for the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JUN 2 0 2005

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: KATSUYA TANAKA, et al.
Application No. 10/770,723
Filed: February 2, 2004
For: STORAGE DEVICE AND CONTROLLING METHOD THEREOF

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed April 27, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner 6/9/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

RP

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OFFICE OF PETITIONS

WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON, NJ 07940

In re Application of
Eugene Brown, et al.
Application No. 10/770,726
Filed: February 4, 2004
Attorney Docket No. M101079

ON PETITION

This is a decision in response to the petition, filed March 26, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 22, 2007. On March 26, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on April 29, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1643 for processing of the RCE in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Sheng Dai, et al. **DOCKET NO.:** 1297
SERIAL NO.: 10/770734 **ART UNIT:** 1754
FILED: 2-3-04 **EXAMINER:** Hendrickson, S
TITLE: **Robust Carbon Monolith having Hierarchical Porosity**

Petition to Make Special under 37 CFR § 1.102(c)

The Commissioner for Patents
P. O. Box 1450, Alexandria, VA 22313

Sir:

Applicant respectfully petitions the Commissioner under 37 CFR § 1.102(c) and in accordance with MPEP 708.02 IV because of the age of an inventor in the above identified patent application. Inventor Georges A. Guiochon is 72 years of age, as evidenced by his Tennessee Driver License, a certified copy of which is appended hereto and labeled as Exhibit A. No fee is required with this petition.

Respectfully submitted,

Joseph A. Marasco, Agent for Applicants
Reg. No. 32,798
UT-Battelle, LLC
P.O. Box 2008 MS 6498
Oak Ridge, TN 37831
(865) 574-4178

Certificate of Mailing
I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail in an envelope addressed to Commissioner for Patents, PO Box 1450, Alexandria, VA 22313 on
FEB 03 2004

Express Mail Label ER 029150678 US

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
MAY 22 2007

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Commissioner for Patents
United States Patent and Trademark Office
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UT-BATTELLE LLC
OFFICE OF INTELLECTUAL PROPERTY
ONE BETHAL VALLEY ROAD
4500N MS-6258
OAK RIDGE TN 37831

In re Application of	:	
Dai, et al.	:	
Application No. 10/770,734	:	DECISION ON PETITIONS
Filed: February 3, 2004	:	
Attorney Docket No. 1297	:	

This is a decision on the petition to expunge under 37 CFR 1.59(b), filed June 27, 2008.

The petition to expunge is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** of the mailing date of this decision.

As set forth 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 instant petition has not satisfied item (B) above. In particular, petitioner has not stated that the failure to obtain its return would cause irreparable harm to the party who submitted the information. In addition, the petition has not satisfied items (C), (D), and (E).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/770,738	02/03/2004	2813	770	5649-946DV	2	14	3

CONFIRMATION NO. 1010

CORRECTED FILING RECEIPT

OC000000013014068

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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)

Won-suk Yang, Kyungki-do, KOREA, REPUBLIC OF;
Ki-nam Kim, Kyungki-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

This application is a DIV of 10/171,247 06/12/2002 PAT 6,699,762

Foreign Applications

REPUBLIC OF KOREA 2001-35110 06/20/2001

If Required, Foreign Filing License Granted: 05/01/2004

Projected Publication Date: 08/12/2004

Non-Publication Request: No

Early Publication Request: No

Title

Integrated circuit devices with an auxiliary pad for contact hole alignment

Preliminary Class

257

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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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REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA, PA 19103

COPY MAILED

SEP 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Debabrata Mukherjee et al	:	
Application No. 10/770,753	:	DECISION ON PETITION
Filed: February 3, 2004	:	
Attorney Docket No. 03-40011-US	:	

This is a decision on the petition under 37 CFR 1.182, filed, May 29, 2007, to change the name of inventor "Deba Mukherjee" to – Debabrata Mukherjee --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1774 for processing.

Irvin Dingle
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
10/770,753	02/03/2004	1774	1050	03-40011-US	11	3

CONFIRMATION NO. 1642

CORRECTED FILING RECEIPT

OC000000025909278

7066
REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA, PA 19103

Date Mailed: 09/19/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Debabrata Mukherjee, Spring Grove, PA;
Rich Y. Ryu, Chillicothe, OH;
Jeffrey E. Gleim, Wellsville, PA;
Leo M. Nelli, Plainsboro, NJ;
Timothy R. Hess, Dallastown, PA;
Ann L. Rishel, York, PA;
Donald E. Golden, Spring Grove, PA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/444,498 02/03/2003

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 US10/770,753

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Quick drying, waterfast inkjet recording media

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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

SAMUEL H. DWORETSKY
AT&T CORP.
P.O. BOX 4110
MIDDLETOWN, NJ 07748-4110

RECEIVED

DEC 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert J. **HALL**	:	
Application No. 10/770,759	:	DECISION ON PETITION
Filed: February 3, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **2003-0060**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 5, 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 August 15, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 15, 2008. Accordingly, the date of abandonment of this application is August 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Ronald D. Slusky appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Slusky desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application will be directed solely to the above-noted correspondence address of record.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: **RONALD D. SLUSKY**
353 WEST 56TH STREET, SUITE 5L
NEW YORK, NY 10019

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

J. NICHOLAS GROSS, ATTORNEY
2030 ADDISON ST.
SUITE 610
BERKELEY CA 94704

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FEB 09 2006

OFFICE OF PETITIONS

In re Application of :
Gross, John N. :
Application No. 10/770,767 :
Filed: February 2, 2004 :
Attorney Docket No. JNG 2004-3 :

ON PETITION

This is a decision on the petition under 37 CFR §1.102(d), filed January 28, 2005, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3623 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KING & SCHICKLI
247 NORTH BROADWAY
LEXINGTON, KY 40507

COPY MAILED

SEP 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Stephen A. Kania et al	:	
Application No. 10/770,772	:	DECISION GRANTING PETITION
Filed: February 3, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1101-006	:	

This is a decision on the petition, filed September 13, 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 February 1, 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 29, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This matter is being referred to Technology Center Art Unit 1645 for examination in due course.

Wan Layton

Wan Layton
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

KLEIN, O''Neill & SINGH, LLP
18200 Von Karman Avenue
Suite 725
IRVINE, CA 92612

Mail Date: 04/21/2010

Applicant	: Jorgen Tage Nielsen	: DECISION ON REQUEST FOR
Patent Number	: 7644654	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/770,793	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1655** 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

VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

COPY MAILED
JUL 06 2007
OFFICE OF PETITIONS

In re Application of :
JINGRONG CAO et al. :
Application No. 10/770,814 :
Filed: February 03, 2004 :
Attorney Docket No. VPI/01-103 DIV US :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed February 14, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on May 17, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee of $ 1,400 and publication fee of $300; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment and publication fee payment are accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Jean F. Duverne at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to the Office of Patent Publication.

David Buell
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-14-07

TO SPE OF : **Technology Center** 2612 10/770832

SUBJECT : Request for Certificate of Correction on Patent No.: 7250898 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Elisha Evans

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The correction is proper

BRIAN ZIMMERMAN
SUPERVISORY PATENT EXAMINER

SPE

2612

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

NATIONAL IP RIGHTS CENTER, LLC
SUITE 400
550 TOWNSHIP LINE ROAD
BLUE BELL, PA 19422

COPY MAILED
MAR 30 2007
OFFICE OF PETITIONS

RECEIVED
MAR 30 2007
OFFICE OF PETITIONS
CANCELLED

In re Application of	:	
Cooper, Kim M.	:	
Application No. 10/770,835	:	ON PETITION
Filed: January 28, 2004	:	
Attorney Docket No. 1077501	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 20, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Banner & Witcoff LTD.
1001 G Street N.W.
Washington DC 20001-4597

MAILED

JUL 0 2 2004

Technology Center 2100

In re Application of:
Gregory S. FRIEDMAN, et al.
Application No. 10/770,841
Filed: February 2, 2004
For: ASYNCHRONOUS REAL-TIME RETRIEVAL OF DATA

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed April 14, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Robert D. Becker
Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Building 2
Palo Alto, CA 94304

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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MANATT PHELPS AND PHILLIPS
ROBERT D. BECKER
1001 PAGE MILL ROAD, BUILDING 2
PALO ALTO, CA 94304

COPY MAILED

JUL 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Gregory S. Friedman, et al.	:	
Application No. 10/770,841	:	DECISION ON PETITION
Filed: February 2, 2004	:	TO WITHDRAW
Attorney Docket No. 25587-031/010	:	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 25, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Manatt, Phelps & Phillips has been revoked by the assignee of the patent application on April 25, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: OBLON, SPIVAK, MCCLELLAND, MAIER
& NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 15 2008

TO SPE OF : ART UNIT 2800

SUBJECT : Request for Certificate of Correction for Appl. No. 10/770852 patent no7257669

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

P.B 9/2/09

Comments: Please apply the changes as noted in attached page (page 2)

/Matt Kim/ Supervisory Patent Examiner 2186

SPE Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

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NOV 24 2008

In re Application of :
Cho, et al. :
Application No. 10/770,864 : ON PETITION
Filed: February 2, 2004 :
Attorney Docket No. **27763-703.502** :

This is a decision on the petition under 37 CFR 1.78(a)(6) filed November 7, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority of the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition. This also a decision on the petition under 37 CFR 1.182 to expedite the disposition of the petition under 37 CFR 1.78(a)(6).

The petition under 37 CFR 1.182 is **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) are only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the periods specified in 37 CFR 1.78(a)(5)(ii).

The petition under 37 CFR 1.78(a)(6) must be accompanied by:

1. the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) of the prior filed application, unless previously submitted.

2. the surcharge set forth in § 1.17(t)

3. a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition under 37 CFR 1.78(a)(6) lacks item (1) above.

It is noted that the subject application was allowed by a Notice of Allowance and Issue Fee Due mailed September 5, 2008. Examiner Leslie Wong has determined that an additional search is necessary in order to determine if this application is entitled to the claim the benefit of the prior-filed provisional applications. A Request for Continued Examination under 37 CFR 1.114 is required, accordingly. The petition is dismissed pending the filing of the Request for Continued Examination.

Petitioner may wish to file a renewed petition under 37 CFR 1.78(a)(6) with a Request for Continued Examination under 37 CFR 1.114.

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 may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

RECEIVED

DEC 22 2008

OFFICE OF PETITIONS

In re Application of :
Cho, et al. :
Application No. 10/770,864 : DECISION ON PETITION
Filed: February 2, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 27763-703.502 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed December 4, 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 to the specification filed December 4, 2008.

The renewed 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 applications as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional applications must have been filed within twelve months of the filing date of the prior-filed provisional applications.

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 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. §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 provisional applications, accompanies this decision on petition.

The Request for Continued Examination under 37 CFR 1.114, filed December 4, 2008, is noted.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin at (571) 272-3222. 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 2164 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 applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/770,864	02/02/2004	2164	698	27763-703.502	38	5

CONFIRMATION NO. 8430

CORRECTED FILING RECEIPT

21971
WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

OC000000033229858

Date Mailed: 12/10/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Raymond J. Cho, San Mateo, CA;
Richard O. Chen, Cupertino, CA;
Ramon M. Felciano, San Francisco, CA;
Daniel R. Richards, Palo Alto, CA;

Assignment For Published Patent Application

INGENUITY Systems, Inc., a Delaware Corporation, Mountain View, CA

Power of Attorney:

Albert Halluin--25227
James Shay--32062
Vernon Norviel--32483
Michael Barclay--32553
Jeffrey Guise--34613
Michael Panepucci--37203
Michael Murphy--37404
F T Mahaney--37668
Um Ping Eng--39666
Vicki Norton--40745

Domestic Priority data as claimed by applicant

This application is a CIP of 10/038,197 11/09/2001 PAT 6,741,986
which is a CIP of 09/733,495 12/08/2000 PAT 6,772,160
which claims benefit of 60/210,898 06/08/2000
and claims benefit of 60/229,582 08/31/2000
and claims benefit of 60/229,581 08/31/2000
and claims benefit of 60/229,424 08/31/2000
and claims benefit of 60/229,392 08/31/2000

Foreign Applications

If Required, Foreign Filing License Granted: 05/03/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/770,864**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

METHODS FOR THE CONSTRUCTION AND MAINTENANCE OF A KNOWLEDGE REPRESENTATION SYSTEM

Preliminary Class

707

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/770,887	02/02/2004	2822	878	TT5556	6	26	3

CONFIRMATION NO. 1070

CORRECTED FILING RECEIPT

OC000000015078541

47332
THE CAVANAGH LAW FIRM
VIAD CORPORATE CENTER
1850 NORTH CENTRAL AVENUE, SUITE 2400
PHOENIX, AZ 85004

Date Mailed: 02/01/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

William A. McGee, San Jose, CA;
Bruce Alan Gieseke, San Jose, CA;
Ognjen Milic-Strkalj, San Jose, CA;

Assignment For Published Patent Application

ADVANCED MICRO DEVICES, INC.

Power of Attorney:

Harry Wolin--32638
Paul Drake--33491
Daniel Collopy--33667
Bradley Botsch--34552
Thomas White--36053
Elizabeth Apperley--36428
Keith Witek--37475
Michael Caywood--37797
John Titus--39047

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/770,887

Projected Publication Date: 08/04/2005

Non-Publication Request: No

Early Publication Request: No

Title

Memory device and method of manufacture

Preliminary Class

257

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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PHOENIX AZ 85004

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FEB 22 2005

OFFICE OF PETITIONS

In re Application of
McGee, et al.
Application No. 10/770,887
Filed: February 2, 2004
Attorney Docket No. TT5556
FOR: MEMORY DEVICE AND METHOD OF MANUFACTURE

: ON PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed December 23, 2004, requesting that the above-identified application be accorded a filing date of February 2, 2004.

The Office originally accorded the above-identified application a January 30, 2004 filing date. Petitioners filed numerous requests to correct the filing date to February 2, 2004, which was the date the application was deposited in U.S. Express Mail Service.

Office records indicates that the Office of Initial Patent Examination mailed a corrected filing receipt showing **February 2, 2004** as the filing date for the above-identified application on February 1, 2005.

As the filing date has already been corrected, the petition under 37 CFR 1.10(c) is **dismissed as moot**. No petition fee has been or will be charged.

The application will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning 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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ANDREW L. REIBMAN, ESQ.
KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

COPY MAILED

SEP 19 2007

OFFICE OF PETITIONS

In re Application of
Finocchio, Richard
Application No. 10/770,892
Filed: February 2, 2004
Attorney Docket No. 12406/81

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed September 4, 2007, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on July 19, 2007 of 1. Request for Continued Examination (RCE); 2. Amendment; and 3. an Extension Request. Additionally, petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of July 16, 2007.

The reply acknowledged as having been received in the USPTO on July 19, 2007 (certificate of mailing date of July 16, 2007) is not of record in the application file and cannot be located. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

Further, a review of USPTO financial records indicates that the RCE and 5-month extension of time fees were collected on July 19, 2007 from Deposit Account No. 11-0600.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

This matter is being referred to Technology Center AU 3711 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,893	02/03/2004	Shihong Gary Song	67097-022	1084

26096 7590 04/10/2008
CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

EXAMINER
KESSLER, CHRISTOPHER S

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
04/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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4-10-08

wk

In re Application of	:	
Song	:	
Serial Number: 10/770,893	:	DECISION
Filed: February 3, 2004	:	ON
For: Castable High Temperature Aluminum Alloy	:	PETITION
	:	

This is in response to the petition filed January 22, 2008, requesting entry of a 1.131 Declaration filed November 20, 2007.

A Declaration was filed on May 15, 2007. The Examiner in a final rejection mailed August 8, 2007 found the May 15, 2007 Declaration ineffective for the reasons of record stated in the office action.

Applicant asserts that although the second-filed Declaration of November 20, 2007 was filed after the final rejection, it was essentially a continuation of the first-filed Declaration to reconcile procedural oversights. It is noted that the second declaration was filed over 3 months from the mailing of the final rejection on August 8, 2007.

> MPEP 715.09 Seasonable Presentation
>
> Affidavits or declarations under 37 CFR 1.131 must be timely presented in order to be admitted. Affidavits and declarations submitted under 37 CFR 1.131 and other evidence traversing rejections are considered timely if submitted:
>
> (A) prior to a final rejection;
>
> (B) before appeal in an application not having a final rejection;
>
> (C) after final rejection, but before or on the same date of filing an appeal, upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 CFR 1.116(e); or
>
> (D) after the prosecution is closed (e.g., after a final rejection, after appeal, or after allowance) if applicant files the affidavit or other evidence with a request for continued examination (RCE) under 37 CFR 1.114 in a utility or plant application filed on or after June 8, 1995; or a continued prosecution application (CPA) under 37 CFR 1.53(d) in a design application.

The Petition is **DISMISSED**.

The declaration filed November 20, 2007 is not timely and there is no showing of good and sufficient reasons why the affidavit was not earlier presented in compliance with 37 CFR 1.116(e).

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Matthew L. Koziarz
CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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Commissioner for Patents
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OCT 0 2 2006

OFFICE OF PETITIONS

MICHAEL G. FLETCHER
FLETCHER YODER
P O BOX 692289
HOUSTON, TX 77269-2289

In re Application of	:
Chad A. Cobbley et al	:
Application No. 10/770,941	: DECISION ON PETITION
Filed: February 3, 2004	: UNDER 37 CFR 1.181
Attorney Docket No. MICA:0078-2	:

This is a decision on the petition filed March 6, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. *Note* 37 CFR 1.181(f). The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely pay the issue and publication fees on or before September 8, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed June 8, 2005. A Notice of Abandonment was mailed on November 11, 2005.

Petitioner asserts that the issue and publication fees were timely paid. To support this statement, petitioner has supplied a copy of the previously submitted correspondence, bearing a certificate of mailing date of September 8, 2005, and a copy of a return postcard date stamped September 19, 2005 by the U.S. Patent and Trademark Office (USPTO), which acknowledges receipt of a transmittal letter for submission of the issue fee and form Part B.

The Part B - Fee(s) Transmittal form was received in the USPTO on September 19, 2005 with an authorization to charge the issue and publication fees to Deposit Account No. 13-3092. Unfortunately, however, there were insufficient funds in petitioner's deposit account on September 20, 2005, the date an attempt was made, to charge the requested fees.

Petitioner has not complied with 37 CFR 1.25(a) which states that "[a]n amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted. In view thereof, the holding of abandonment was proper and will not be withdrawn.

Petitioner should consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting the acceptance of a delayed payment of the issue and publication fees.

Should petitioner seek relief under the provisions of 37 CFR 1.137(a), a statement explaining the procedures used for tracking the balance of funds in the deposit account and why the procedures failed in this instance to alert petitioner of the need to replenish the account must be submitted. If the deposit account is maintained by someone other than petitioner, a statement from the responsible individual must be submitted. The statement must set forth the amount of experience, training and degree of supervision of the responsible individual. Additionally, petitioner must state what checks were made on the described work of the responsible individual which were used to assure proper execution of assigned tasks.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL G. FLETCHER
FLETCHER YODER
P O BOX 692289
HOUSTON, TX 77269-2289

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Chad A. Cobbley et al :
Application No. 10/770,941 :
Filed: February 3, 2004 :
Attorney Docket No. MICA:0078-2 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 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 8, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed June 8, 2005. Accordingly, the date of abandonment of this application is September 9, 2005. A Notice of Abandonment was mailed on November 11, 2005.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARJAMA & BILINSKI LLP
250 SOUTH CLINTON STREET
SUITE 300
SYRACUSE NY 13202

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JUN 19 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Michael A. Ehrhart e al :
Application No. 10/770,950 :
Filed: February 3, 2004 :
Attorney Docket No. 283-237.06.07 :

This is a decision on the petition, filed May 25, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2624 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAIL

FEB 13 2007
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

In re Application of
CLARK, ADAM LESLIE
Application No. 10/770,952
Filed: February 2, 2004
For: **SYSTEM AND METHOD FOR ENCODING LIVE AUDIO/VIDEO INFORMATION**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed August 5, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Michael Hrabik
Quality Assurance Specialist
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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WPAT, PC
2030 MAIN STREET
SUITE 1300
IRVINE, CA 92614

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MAR 11 2010

In re Application of	:	
Frank Liebenow	:	
Application No. 10/770,961	:	DECISION ON PETITION
Filed: February 3, 2004	:	TO WITHDRAW
Attorney Docket No. AC-09131-US-TR	:	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 29, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Pearne & Gordon, LLP has been revoked by the assignee of the patent application on January 11, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: GATEWAY, INC.
610 GATEWAY DRIVE
MAILDROP Y-04
N. SIOUX CITY, SD 57049

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

NADA JAIN, P.C.
560 White Plains Road, Suite 460
Tarrytown, NY 10591

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MAR 0 3 2005

OFFICE OF PETITIONS

In re Application of	:
Romanczyk, Jr. et al.	:
Application No. 10/770,969	: DECISION GRANTING PETITION
Filed: February 2, 2004	:
Attorney Docket No. 1010-101US13	:

This is a decision on the "RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION AND A PETITION" filed May 6, 2004, requesting that the application be accorded a filing date of February 2, 2004, with Figure 36U as part of the original disclosure.

The application was deposited on February 2, 2004. On May 4, 2004, Initial Patent Examination Division mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that a filing date had been accorded to the application papers but that Figures 36U and 52 described in the specification appeared to have been omitted.

In response, on May 6, 2004, the present petition was filed. Petitioners allege that 244 sheets of drawings, including Figure 36U, were included in the application as filed on February 2, 2004. Petitioners acknowledge that the application papers did not include a Figure 52. In support, the petition is accompanied by, *inter alia*, a copy of applicants' postcard receipt which acknowledges receipt in the USPTO of "Figures 1-51 and 53-65 (244 sheets of drawings)." The petition included an authorization to charge the $130.00 petition fee to counsel's deposit account and was accompanied by a copy of Figure 36U.

Thereafter, Initial Patent Examination Division erroneously changed the filing date of the application to May 6, 2004, the date of receipt of Figure 36U, without consideration of the petition.

Applicants' postcard receipt acknowledges receipt of 244 sheets of drawings on February 2, 2004 and thus the evidence is convincing that at least 242 sheets of drawings were received. Therefore, it is concluded that the one sheet of drawings containing Figure 36U was received on February 2, 2004, and later misplaced in the Office.

The petition is granted. No petition fee is required and no such fee has been charged.

The copy of the one (1) sheet of drawings containing Figure 36U supplied on May 6, 2004 will be used for processing and examination purposes in addition to the 241 sheets of drawings filed on February 2, 2004, which are present in the application file.

Initial Patent Examination Division is directed to correct the filing date of the application to **February 2, 2004**, process the application with the 241 sheets of drawings filed on February 2, 2004 and the one (1) sheet of drawings supplied on May 6, 2004, and mail a corrected filing receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-7727.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PAUL K. LEGAARD
ISIS PHARMACEUTICALS, INC
1896 RUTHERFORD ROAD
CARLSBAD, CA 92008

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Baker et al.	:	DECISION ON PETITION
Application No. 10/770,970	:	TO WITHDRAW
Filed: February 2, 2004	:	FROM RECORD
Attorney Docket No. ISPH-0826	:	

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 5, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on June 29, 2006 the power of attorney to Isis Pharamaceuticals, Inc. 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
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/770,976	02/02/2004	2173	824	003797.00613	8	23	3

CONFIRMATION NO. 2197

CORRECTED FILING RECEIPT

OC000000012803247

28319
BANNER & WITCOFF LTD.,
ATTORNEYS FOR MICROSOFT
1001 G STREET , N.W.
ELEVENTH STREET
WASHINGTON, DC 20001-4597

Date Mailed: 06/01/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Steve Dodge, Sammamish, WA;
Arin J. Goldberg, Woodinville, WA;
Haiyong Wang, Bellevue, WA;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/03/2004

Projected Publication Date: 08/04/2005

Non-Publication Request: No

Early Publication Request: No

Title

Reflowable ink

Preliminary Class
345

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Manjari Asawa	: DECISION ON REQUEST FOR
Patent Number	: 7590070	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/770,995	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1064** 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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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of
Frederic Henot et al.
Application No. 10/771,004
Filed: February 3, 2004
Attorney Docket No. 14152.0002USD1

: DECISION GRANTING
: PETITION

This is a decision on the petition filed August 3, 2004, which is treated under 37 CFR 1.182 to establish prior receipt in the USPTO of items considered to be omitted.

The petition is **GRANTED**.

The application was filed on February 3, 2004. However, on July 23, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Items, "Notice", stating that the application had been accorded a filing date but that Pages 28 and 38 of the specification (description and claims) appeared to have been omitted.

In response, on August 3, 2004, pages 28 and 38 of the specification, the present petition, and a petition fee were filed. Petitioners argue that pages 28 and 38 were filed with the other application papers on February 3, 2004. In support, a copy of petitioners' postcard receipt was also supplied August 3, 2004 with the instant petition. The postcard receipt shows an Office date stamp of February 3, 2004, and the above-identified application number, and acknowledges receipt of, *inter alia*, 61 pages of specification. Petitioners request that the application, including Pages 28 and 38 of the specification, be accorded a filing date of February 3, 2004.

A review of the record reveals that no Pages 28 and 38 of the specification has been located among the application papers deposited on February 3, 2004. However, the evidence is convincing that the application papers deposited on February 3, 2004, included Pages 28 and 38 of the specification. Therefore, the application, including Pages 28 and 38 of the specification, is entitled to a filing date of February 3, 2004.

The "Notice" mailed on July 23, 2004, is vacated.

In view of the above, the petition is granted. The petition fee will be refunded to petitioner's deposit account, No. 13-2725.

The application will be processed and examined using the copy of Pages 28 and 38 supplied on August 3, 2004.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of February 3, 2004 using the application papers filed on that date, and the copy of Pages 28 and 38 of the specification supplied on August 3, 2004.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at 703-305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Venture Pacific Law, PC
5201 Great America Parkway, Suite 270
Santa Clara, CA 95054

MAILED

JUN 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Caisong ZOU, et *al.*	:	
Application No. 10/771,010	:	DECISION ON PETITION
Filed: February 2, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **BYD-US2003-016**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 24, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 25, 2007.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Quon Hom 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. Hom desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1745 for appropriate action by the Examiner in the normal course of business on the reply received April 30, 2010.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **QUON HOM**
5201 GREAT AMERICA PARKWAY, SUITE 270
SANTA CLARA, CA 95054

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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MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re Application of
Adam Leslie Clark
Application No. 10/771048
Filed: February 2, 2004
For: SYSTEM AND METHOD FOR COMPRESSING AND ENCODING VIDEO

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed August 6, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
571-272-2986

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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JUN - 6 2005

J. NICHOLAS GROSS,
ATTORNEY AT LAW
726 Duboce Ave.
San Francisco, CA 94117

In re application of John N. Gross Application No. 10/771,049 Filed: February 2, 2004 For: NOTIFICATION SYSTEM AND METHOD FOR MEDIA QUEUE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R. § 1.102(d) filed January 28, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed January 28, 2005, meets all of the requirements above and is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/jwk: 2/4/05

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,049	02/02/2004	John N. Gross	JNG 2004-5	1525

23694 7590 05/19/2008
J. NICHOLAS GROSS, ATTORNEY
2030 ADDISON ST.
SUITE 610
BERKELEY, CA 94704

EXAMINER
RUHL, DENNIS WILLIAM

ART UNIT	PAPER NUMBER
3689	

MAIL DATE	DELIVERY MODE
05/19/2008	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

MAY 16 2008

TECHNOLOGY CENTER 3600

J. Nicholas Gross, Attorney
2030 Addison Street
Suite 610
Berkeley, CA 94704

In re Application of
John N. Gross
Serial Number: 10/771,049
Filed: February 2, 2004
For: **NOTIFICATION SYSTEM AND METHOD FOR MEDIA QUEUE**

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on Applicant's Petition filed on December 3, 2007 to have at least some of the references cited in the October 10, 2007 Information Disclosure Statement (IDS) entered in the application and considered by the examiner.

The Petition is **DENIED.**

History

A final rejection was mailed on September 17, 2007. In response to the final rejection, applicant filed an amendment after final rejection on September 26, 2007 and an Information Disclosure Statement on October 10, 2007. As required under 37 CFR 1.97, the IDS was submitted with the certification statement and required fee set forth in 37 CFR 1.17 (p). The certified statement sets forth that "**no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement**".

The examiner's next office action mailed on November 27, 2007 indicated that the IDS filed on October 10, 2007 would not be considered because seven of the references listed on the IDS had already been present in the file more than three months from the certification statement and therefore the certification statement under 37 CFR 1.97(e)(2) was erroneous.

Decision

Applicant's petition does not contest that the certified statement was in error. Applicant simply states that "the Examiner should nonetheless at least consider the other references for which the certification was accurate". However, there is no provision to consider in part an IDS after a final rejection. Also, the examiner would not know to which references the certification was correct and should be considered. Therefore, the examiner correctly held that the IDS did not meet the requirements of 37 CFR 1.97 and was properly not considered in his review.

The application has been forwarded to the Office of Publication for issuance of the Patent.

Any questions regarding this decision should be directed to Supervisory Patent Examiner John Weiss at 571-272-6812.

Wynn Coggins, Director
Technology Center 3600
571-272-5350

WC/jw 4/28/08

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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JUN 2 1 2004
OFFICE OF PETITIONS

In re Application of	:	
Hildeberto Nava	:	
Application No. 10/771,053	:	DECISION ON PETITION
Filed: February 3, 2004	:	
Attorney Docket No. 5458.83ACT	:	

This is a decision on the paper titled "PETITION TO ACCORD THE PROPER FILING DATE", filed May 12, 2004, which is being treated as a petition under 37 CFR 1.10 to accord the above identified application a filing date of February 3, 2004 rather than February 2, 2004.

The petition is **DISMISSED** as involving a moot issue.

A review of the application in PALM records reveals that the application has already been accorded a filing date of February 3, 2004. This is further reflected in the filing receipt mailed on May 24, 2004.

The application file is being forwarded to Group Art Unit 1713 for docketing and examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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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MAY 1 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Reinhard Heinrich HOHENSEE et al.	:	
Application No. 10/771,055	:	DECISION ON PETITION
Filed: February 03, 2004	:	
Attorney Docket No.	:	
5962.0006USD1/IBMN.004US		

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 04, 2008 and resubmitted April 02, 2009 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 July 03, 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 October 04, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of July 03, 2007, is accepted as having been unintentionally delayed.

The petition fee of $1,640.00 filed with the petition dated April 02, 2009 is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2161 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Gregory E. Conner
Department of Cell Biology and Anatomy; R-124
University of Miami School of Medicine
P.O. Box 016960
Miami FL 33101

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MAR 20 2008

In re Application of	:	
Gregory E. **Conner**	:	
Application No. 10/771,057	:	DECISION ON PETITION
Filed: February 03, 2004	:	
Attorney Docket No. GEC-001-2US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed January 12, 2007, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770.00, and (3) a proper 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.

Telephone inquiries concerning this decision should be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 1616 for appropriate action by the Examiner in the normal course of business on the reply received

David A. Bucci
Petitions Examiner
Office of Petitions

C/c:
Edwin Ching
4248 Jefferson Avenue
Woodside, CA 94062

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HITT GAINES, PC
LUCENT TECHNOLOGIES, INC.
P.O. BOX 832570
RICHARDSON, TX 75083

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Young-Kai Chen, et. al.	:	
Application No. 10/771,089	:	ON PETITION
Filed: February 3, 2004	:	
Attorney Docket No. Y-K CHEN 31-5-3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply to the non-final Office action mailed January 21, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The Office hereby acknowledges receipt of a Specification, Information Disclosure Statement (IDS), and four (4) sheets of drawings containing Figures 1-4.

The application file is being referred to Technology Center Art Unit 2819, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Sean D. Solberg
DORSEY & WHITNEY LLP
Suite 1500
50 South Sixth Street
Minneapolis MN 55402-1498

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OFFICE OF PETITIONS

In re Application of	:
Johnson, et al.	:
Application No. 10/771,090	: DECISION ON PETITION
Filed: February 3, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 14063.01	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 21, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a

proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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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 inquiries concerning this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Sean D. Solberg
DORSEY & WHITNEY LLP
Suite 1500
50 South Sixth Street
Minneapolis MN 55402-1498

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OFFICE OF PETITIONS

In re Application of
Johnson, et al.
Application No. 10/771,090
Filed: February 3, 2004
Attorney Docket No. 14063.01

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 12, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **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).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The

relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application.

The application data sheet has been found to be non-compliant with the provisions of 37 CFR 1.76(c), as indicated in the Advisory Action mailed July 3, 2007.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

Further correspondence with respect to this matter should be addressed as follows:

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Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

C. L. Donnell for
Frances Hicks
Lead Petitions Examiner
Office of Petitions

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PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN, VA 22102

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JAN 25 2007
OFFICE OF PETITIONS

In re Application of	:	
Philip J. Simpson et al	:	
Application No. 10/771,093	:	DECISION ON PETITION
Filed: February 2, 2004	:	
Attorney Docket No. 029011/0308042	:	

This is a decision on the petition, filed September 21, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the Notice To File Missing Parts Of Nonprovisional Application mailed August 4, 2004. Applicant was given Two Months from the mail date to file the reply.

Petitioner asserts that the Notice dated August 4, 2004 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record (The address was recorded from the Declaration and Power of Attorney submitted with the application on filing of the above application.

In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and

3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner'statement.

Additionally, Office records do show that mail was returned as undelivered on August 24, 2004 and on April 26, 2005. The Office did not remail the Notice(s) to another address that was associated (transmittal letter submitted with the application on filing) with the above file.

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.

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 Office of Initial Patent Examination for **re-mailing** of the Notice To File Missing Parts Of Nonprovisional Application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAIL

APR 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of TAKEDA et al	:	
Application No.: 10/771,113	:	DECISION ON PETITION
Filing Date: February 2, 2004	:	FOR ACCELERATED
For: METHOD FOR ANALYZING	:	EXAMINATION UNDER
PERFORMANCE INFORMATION	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed December 30. 2004 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 December 30. 2004 meets the criteria set forth above, the petition to make special is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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AUG 16 2004

In re Application of
Robert M. Grace
Application No. 10/771,115
Filed: February 4, 2004
Attorney Docket No. 034158-026

DECISION ON PETITION

This is a decision on the petition to make special filed on April 13, 2004. The $130.00 petition fee has been received.

The petition is granted.

The petition to make special is based upon the existence of an actual infringement. A review of the petition shows that all of the requirements established in MPEP § 708.02(II) for a petition on that grounds have been satisfied. Therefore, petitioner is entitled to have this application handled special in accordance with MPEP § 708.02, subsection styled "Handling of Petitions to Make Special".

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3711 is being advised of the granting of the instant petition, and will in turn advise the examiner to whom the application is assigned of the special status of this application and the need for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Burns Doane Swecker & Mathis, L.L.P.
Post Office Box 1404
Alexandria, VA 22313-1404

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____11/9/09____

DATE : 11/03/09

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction for Appl. No.: 10771133 Patent No.: 7098932

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: _____

_____

_____

_____

_____

Kee Tung 2628

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE	Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091110

DATE : November 17, 2009

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.: 7098932

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: Kee Tung **Art Unit** 2628

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SAWYER LAW GROUP LLP
P O BOX 51418
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JAN 18 2007

OFFICE OF PETITIONS

In re Application of
Nasiri et al.
Application No. 10/771,135
Filed: February 2, 2004
Attorney Docket No. IVS-104US/3403P

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 16, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed 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 applications 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 prior-filed nonprovisional 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 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282. Any other inquiries should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1763 for appropriate action on the amendment filed October 16, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Liana Walsh
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	DRAWINGS	TOT CLMS	IND CLMS
10/771,135	02/02/2004	1763	450	IVS-104US/3403P	8	19	1

CONFIRMATION NO. 8836
CORRECTED FILING RECEIPT
OC000000022030864
OC000000022030864

29141
SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO, CA 94303

Date Mailed: 01/17/2007

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)

Steven S. Nasiri, Saratoga, CA;
Anthony Francis Flannery JR., Los Gatos, CA;

Power of Attorney:

Joseph Sawyer Jr--30801
Michael Woods--33466
Stephen Sullivan--38329
Janyce Mitchell--40095
Michele Liu--44875
Michael Johnson--55306

Domestic Priority data as claimed by applicant

This application is a CIP of 10/690,224 10/20/2003 PAT 6,892,575
and is a CIP of 10/691,472 10/20/2003 PAT 6,939,473

Foreign Applications

If Required, Foreign Filing License Granted: 05/03/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/771,135

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Vertical integration of a MEMS structure with electronics in a hermetically sealed cavity

Preliminary Class

438

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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FEB 1 1 2008

OFFICE OF PETITIONS

In re Patent No. 7,247,246	:	
Application No. 10/771,135	:	
Filed: February 2, 2004	:	ON PETITION
Issued: July 24, 2007	:	
Attorney Docket No. IVS-104US/3403P	:	

This is a decision on the petition filed November 7, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

The request was not accompanied by the $130.00 processing fee as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

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

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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OFFICE OF PETITIONS

In re Patent No. 7,247,246	:	
Application No. 10/771,135	:	
Filed: February 2, 2004	:	ON PETITION
Issued: July 24, 2007	:	
Attorney Docket No. IVS-104US/3403P	:	

This is a decision on the renewed petition filed February 20, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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Fish & Richardson PC
P.O.Box 1022
Minneapolis, MN 55440

Mail Date: 04/21/2010

Applicant	: Srinivas Katar	: DECISION ON REQUEST FOR
Patent Number	: 7660327	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/771,136	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1107** 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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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

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OFFICE OF PETITIONS

In re Application of
Lutz Lehmann, et. al.
Application No. 10/771,149
Filed: February 4, 2004
Attorney Docket No. SCH-1946

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The 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 Rejection of October 19, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with $510 fee; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 1618 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Brian Brown
Petitions Examiner
Office of Petitions

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THE NATH LAW GROUP
112 South West Street
Alexandria VA 22314

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DEC 17 2008

In re Application of
Meir Botbol
Application No.10/771,150
Filed: February 4, 2004
Attorney Docket Number: 25973
Title: Method and System For Tissue Differentiation

DECISION

This is in response to the " Petition under 37 CFR 1.47 Filing When An Inventor Refuses To Sign", filed November 7, 2008.[1]

In response to the Notice of Allowability mailed August 8, 2008, petitioner has submitted a petition under 37 CFR 1.47. The Notice of Allowability required a new oath or declaration because a date was not submitted next to the signature on the 1.63 declaration. Petitioner states that inventor Botbol refuses to execute the supplemental declaration.

A review of the March 24, 2006 declaration shows that the executed declaration does not contain a date. However, a date is no longer required on a declaration. Pursuant to MPEP 602.05:

> The Office no longer checks the date of execution of the oath or declaration and the Office will no longer require a newly executed oath or declaration based on an oath or declaration being stale (that is when the date of execution is more than 3 months prior to the filing date of the application) or where the date of execution has been omitted. However, applicants are reminded that they have a continuing duty of disclosure under 37 CFR 1.56

[1]Once an application has received a properly executed oath or declaration and such has been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

Accordingly, the petition is **Dismissed As Moot**

No petition fee is due and none has been charged.

This application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

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JAN 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Brent R. Constantz	:	
Application No. 10/771,160	:	DECISION ON PETITION
Filed: February 2, 2004	:	TO WITHDRAW
Attorney Docket No. CORA-010CON	:	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 30, 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 Bret E. Field on behalf of all attorneys of record who are associated with customer No. 24353.

All attorneys/agents associated with the Customer Number 24353 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BRENT R. CONSTANTZ
191 JEFFERSON AVENUE
MENLO PARK, CA 94025

cc: CARL J. EVENS
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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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
10/771,176	02/03/2004	1755	833	SITECH.017CP1CP	31	53	5

CONFIRMATION NO. 9648

CORRECTED FILING RECEIPT

OC000000013041359

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 06/23/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Unknown, Residence Not Provided;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/215,162 08/07/2002
which is a CIP of 10/062,748 02/01/2002

Foreign Applications

If Required, Foreign Filing License Granted: 04/09/2004

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Sol-gel-derived halogen-doped glass

Preliminary Class

501

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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SEP 21 2004

In re Application of
Wendell E. Mast *et al*
Application No. 10/771,177
Filed: February 2, 2004
Attorney Docket No. 116384.00105

: DECISION ON PETITION

This is a decision on the petition to make special filed on August 27, 2004. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3722 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent there with this decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Technology Center 3700

Hahn Loeser & Parks, LLP
Twin Oaks Estate
1225 W. Market Street
Akron, OH 44313

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DIW 11-04

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SUITE 3500
LOS ANGELES CA 90067

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OFFICE OF PETITIONS

In re Application of	:
Kalevik, Coogan, Jackson, Laland,	: DECISION REFUSING STATUS
Murphy, Rector, and Wiljanen	: UNDER 37 CFR 1.47(a)
Application No. 10/771,178	:
Filed: 2 February, 2004	:
Atty Docket No. 029773-0202	:

This is in response to the petition filed under 37 CFR 1.47(a) on 1 November, 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 2 February, 2004 without an executed oath or declaration. Accordingly, on 4 May, 2004, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring the statutory basic filing fee, additional claim fee(s), an executed oath or declaration, and a surcharge for their late filing.

In response, on 1 November, 2004, petitioners filed a four (4) month extension of time, the statutory basic filing fee, additional claim fee(s) and surcharge, the present petition and petition fee, and a declaration naming Mark Kalevik, Tom Coogan, Denis Jackson, Glenn Leland, Steve Murphy, Mark Rector, and Kathy

Wiljanen as joint inventors, and signed by all joint inventors except Wiljanen.

Petitioners state that joint inventor Wiljanen has 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 items (1) and (2).

With regard to item (1), the petition is dismissed because the showing of record is unclear as to whether the declaration accompanying the application papers sent to the non-signing inventor with the transmittal letter dated 4 August, 2004, recited the proper inventive entity. A review of the papers received on 1 November, 2004, reveals that the declaration signed by joint inventor Murphy does not list Mark Rector as a joint inventor, while the declaration signed by joint inventor Rector does not list Steve Murphy as a joint inventor.[1] It is unclear, additionally, whether the declaration sent to non-signing joint inventor Wiljanen listed Mark Record as a joint inventor. Thus it cannot be ruled out that Wiljanen refused to sign the declaration due to inventorship *per se*. Additionally, it is unclear whether joint inventors Kalvelik, Coogan, Jackson, Leland, and Murphy signed the declaration naming Rector as joint inventor or the declaration that did not name Rector as a joint inventor.

Petitioners must therefore show that an application properly naming the inventive entity (specification, including claims,

---

[1]Page 5 of 5 of the declaration signed by joint inventor Murphy names Murphy as the fifth inventor and Wiljanen as the sixth inventor. Page 5 of 5 of the declaration signed by joint inventor Rector names Murphy as the fifth inventor and both Wiljanen and Rector as the sixth inventor.

drawings if any, and a declaration correctly stating the inventorship) was sent inventor Wiljanen along with a request that she sign and return the declaration.

With regard to item (2), the declaration is defective in that either joint inventor Murphy or Rector signed a declaration that did not name the proper inventive entity. Additionally, it is unclear whether the declaration naming joint inventor Rector was presented to joint inventors Kalevik, Coogan, Jackson, and Leland. Petitioners must provide an oath or declaration in compliance with 37 CFR 1.63 and 1.67, naming the proper inventive entity, signed by all of the signing inventors on behalf of themselves and the non-signing inventor.

Furthermore, as both Wiljanen and Rector are listed as the sixth inventor on the declaration signed by Rector, any renewed petition should clearly state the desired order of inventorship.

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

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 01-05

FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES CA 90067

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of	:
Kalevik, Coogan, Jackson, Leland,	: DECISION REFUSING STATUS
Murphy, Rector, and Wiljanen	: UNDER 37 CFR 1.47(a)
Application No. 10/771,178	:
Filed: 2 February, 2004	:
Atty Docket No. 029773-0202	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 14 December, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Kathy Wiljanen, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, via the declaration of registered patent attorney Ronald Coslick, that a copy of the above-identified application was sent via email to the non-signing inventor. The non-signing inventor, however, refused via email to sign and return the declaration naming her as a joint inventor along with Mark Kalevik, Tom Coogan, Denis Jackson, Glenn Leland, Steve Murphy, and Mark Rector.

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 in the petition, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being referred to Technology Center Art Unit 3629 for examination in due course.

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
www.uspto.gov
DIW 01-05

Kathy Wiljanen
1410 Foster Meadow Dr.
Richmond, TX 77469

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of
Kalevik et al.
Application No. 10/771,178
Filed: 2 February, 2004
For: SYSTEM AND METHOD FOR MANAGING REQUESTS FOR MEDICAL TRANSPORTATION

Dear Ms. Wiljanen:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES CA 90067

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PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS MO 63006

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OFFICE OF PETITIONS

In re Application of	:	
Mark John Field	:	
Application No. 10/771,183	:	DECISION ON PETITION
Filed: February 03, 2004	:	
Attorney Docket No. **PC25224B**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 31, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 05, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 06, 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) the required reply is missing Philip Polster signature.

Application No. 10/771,183

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) 272-2783.

David Bucci
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ST. LOUIS MO 63006

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MAR 2 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark J. Field et al.	:	
Application No. 10/771,183	:	DECISION ON PETITION
Filed: February 03, 2004	:	
Attorney Docket No. **PC25224B**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 05, 2007, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 06, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

The petition fee of $1540 will be credited to the petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1623 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/11/07

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 7071219

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:

SPE

1625
Art Unit

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ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER NJ 08807

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
Heinelt, et al. : LETTER REGARDING PTA
Application No. 10/771,185 :
Filed: February 3, 2004 :
Atty. Dkt. No.: DEAV2003/0006 :
US NP

This letter is in response to the "Request for Reconsideration of the Patent Term Adjustment Under 37 C.F.R. § 1.705(b)," filed June 11, 2008, which is being treated as a letter of good faith and candor in accordance with MPEP 2733. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed April 15, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 760 days. Applicants advise that this adjustment is incorrect and advise that the application is entitled to an adjustment is 732 days.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 732 days.

As indicated in the Determination of Patent Term Adjustment mailed April 15, 2008, an overall adjustment of 760 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1).

As indicated by applicants, the adjustment is properly reduced 28 days in accordance with 37 CFR 1.704(b) in connection with the reply filed September 1, 2004 in response to the Notice to File Missing Parts (Notice) mailed May 4, 2004. The reduction commenced August 5, 2004, the day after the date that is three months after the date that the Notice was mailed, and ended September 1, 2004, the date that the response thereto was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment 732 days (adjustment for Office delays

totalling 760 days less reductions for applicants delays totalling 28 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. A refund of the $200.00 assessed in connection with this matter will ensue.

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 : Friday
Date: 9/26/2008

PALM INTRANET

Time: 06:01:03

PTA Calculations for Application: 10/771185			
Application Filing Date:	02/03/2004	PTO Delay (PTO):	760
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	732
PTO Delay Adjustment:	-28		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
60	09/18/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		28	
51	04/15/2008	MAIL NOTICE OF ALLOWANCE			
50	04/11/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	04/09/2008	ISSUE REVISION COMPLETED			
48	04/09/2008	DOCUMENT VERIFICATION			
47	03/31/2008	NOTICE OF ALLOWABILITY			
43	01/25/2008	DATE FORWARDED TO EXAMINER			
42	01/04/2008	RESPONSE AFTER NON-FINAL ACTION			
41	10/20/2007	ELECTRONIC REVIEW			
40	10/19/2007	EMAIL NOTIFICATION			
39	10/19/2007	MAIL NON-FINAL REJECTION			
38	10/15/2007	NON-FINAL REJECTION			
37	08/14/2007	ELECTRONIC REVIEW			
36	08/11/2007	EMAIL NOTIFICATION			
35	08/10/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
34	07/10/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
33	08/03/2007	DATE FORWARDED TO EXAMINER			
32	08/02/2007	RESPONSE AFTER NON-FINAL ACTION			
31	07/04/2007	ELECTRONIC REVIEW			
30	07/03/2007	EMAIL NOTIFICATION			
29	07/02/2007	MAIL NON-FINAL REJECTION			
28	06/25/2007	NON-FINAL REJECTION			
27	02/03/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

26	05/22/2007	DATE FORWARDED TO EXAMINER			
25	05/17/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
24	05/09/2007	ELECTRONIC REVIEW			
23	05/08/2007	EMAIL NOTIFICATION			
22	05/03/2007	MAIL RESTRICTION REQUIREMENT	760		-1
21	04/30/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
20	09/13/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	09/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	02/03/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
17	02/03/2004	REFERENCE CAPTURE ON IDS			
16.7	02/03/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	02/03/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	09/16/2004	APPLICATION RETURN FROM OIPE			
14	09/17/2004	APPLICATION IS NOW COMPLETE			
13	09/16/2004	APPLICATION RETURN TO OIPE			
12	09/16/2004	APPLICATION RETURN FROM OIPE			
11	09/16/2004	APPLICATION RETURN TO OIPE			
10	09/16/2004	APPLICATION DISPATCHED FROM OIPE			
9	09/16/2004	APPLICATION IS NOW COMPLETE			
8	09/01/2004	ADDITIONAL APPLICATION FILING FEES			
7	09/01/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	03/25/2004	CLEARED BY L&R (LARS)			
4	03/15/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	03/15/2004	CASE CLASSIFIED BY OIPE			
2	02/13/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/03/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Thompson E. Fehr
Goldenwest Corporate Center
Suite 300
5025 Adams Avenue
Ogden, UT 84403

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APR 2 4 2006

OFFICE OF PETITIONS

In re Application of :
Paul W. Budge :
Application No. 10/771,214 :
Filed: February 2, 2004 :
Attorney Docket No. PBUDPL :

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 17, 2006, 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 non-final Office action, mailed June 24, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on September 25, 2005. A Notice of Abandonment was mailed January 17, 2006.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Amendment in response to the June 24, 2005 Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 3676 for processing of the Amendment, filed with the instant petition, in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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DEAN P. ALDERUCCI
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

4/20/09

In re Application of:
MILLER, KENNETH L.
Serial No.: 10/771,221
Filed: Feb. 3, 2004
Docket: 04-7102
Title: SYSTEM AND METHOD FOR MANAGING SELECT FIVE HORSERACING BETS

DECISION ON PETITION TO WITHDRAW FINALITY OF THE FINAL OFFICE ACTION

This is a decision on the petition filed on April 15, 2009 to withdraw the finality of the Office action of November 12, 2008.

The petition is **DISMISSED as untimely**.

The examiner issued a non-final Office action on January 28, 2008 rejecting all claims in the application. In response to the office action, on July 18, 2008 the applicant filed an amendment and arguments traversing the rejection. On November 12, 2008, the examiner issued a final Office action. On February 12, 2009, the applicant filed a response to the final rejection of November 12, 2008 with arguments and traversal of the rejection. On March 9, 2009, the examiner issued an advisory action informing the applicant that the response to the final rejection will be entered for the purposes of appeal. On April 15, 2009, the applicant filed a Notice of Appeal and a Request for Pre-Appeal Brief Conference. On April 15, 2009, the current petition to withdraw the finality of the final Office action of November 12, 2008 was filed.

The petitioner's request to withdraw the finality of the Office action mailed on November 12, 2008 was based on the fact that the examiner has introduced new grounds of rejection because the examiner for the first time in his "Response to Arguments" part of the Office action referred to the Garahi patent publication as evidence that "a player can select multiple races to bet on from a plurality of horse races scheduled at a track in a day" is well known in the art.

Applicable Rules or Statutes

37 CFR 1.181(f):
The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Review of the record shows that the instant petition was filed more than five months after the mailing date of the final Office action of November 12, 2008. Pursuant to 37 CFR 1.181(f), the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the relief requested will not be granted. Petitioner is entitled to request reconsideration of this decision provided that the request for reconsideration is filed within two months of the date of this decision.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3714 for preparation of a pre-appeal brief conference. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED

Robert Olszewski, Director
Technology Center 3700

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Paper No.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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JUL 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Szeto et al.	:	
Application No. 10/771,232	:	ON APPLICATION FOR
Filed: February 3, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 093873-0106	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed April 13, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is seven hundred fifty-one (751) days, not three hundred seventy-nine (379) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Citing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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). This fee is required and will not be refunded.

---

[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.

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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In re Patent No. 7,576,061	:	DECISION ON REQUEST
Szeto et al.	:	FOR
Issue Date: August 18, 2009	:	RECONSIDERATION OF
Application No. 10/771,232	:	PATENT TERM ADJUSTMENT
Filed: February 3, 2004	:	and
Atty Docket No. 093873-0106	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 25, 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 seven hundred eighteen (718) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **seven hundred seventeen (717)** days.

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 February 4, 2007 and ends on March 25, 2008, the day before the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 416 not 417 days, and the B delay considering the 50 days of overlap is 366 days. As such, the correct patent term adjustment is 717, not 718 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 Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred seventeen (717)** 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 : 7,576,061 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Szeto 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 351 days

Delete the phrase "by 351 days" and insert – by 717 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Mail Date: 04/30/2010

Applicant	: Antonino Cattaneo	: DECISION ON REQUEST FOR
Patent Number	: 7608453	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/771,257	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **482** 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.