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

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AUG 0 2 2004

OFFICE OF PETITIONS

In re Application of
Richard Assaker et al
Application No. 10/771,284
Filed: February 5, 2004
Attorney Docket No. 64118.000046

DECISION GRANTING PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the petition filed June 18, 2004, under 37 CFR 1.55(c) requesting acceptance of an unintentionally delayed claim under 35 USC 119(a) through (d) for benefit of the filing date of foreign French Application No. FR 98 05558, filed April 30, 1998.

A petition for acceptance of a claim for foreign priority under 37 CFR 1.55(c) is only applicable to those applications filed on or after November 29, 2000. Further, the nonprovisional application must be filed within 12 months of the filing date of the foreign application. In addition, a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) must be accompanied by:

(1) the claim under 35 U.S.C. §119(a)-(d) to the prior foreign application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] The claim must identify in the oath or declaration the foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by specifying the application number, country, and the filing date. *Note* also 37 CFR 1.63(c)(2).

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on February 5, 2004, which is after November 29, 2000. Intermediate Application No. PCT/IB99/00794 was filed within twelve months of April 30, 1998, (the filing date of the foreign application to which benefit is now being claimed). On July 6, 2004, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1330 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

A filing receipt which sets forth the projected publication date of November 4, 2004 was mailed on July 28, 2004.

This application is being referred to Technology Center AU 3731 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a) through (d) and 37 CFR 1.55(c).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (703) 305-8859.

Karen Creasy

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

MILLER THOMPSON, LLP
20 Queen Street West
Suite 2500
Toronto, ON
M5H 3S1
CANADA

In re application of
Robin Gibson
Application No. 10/771,303
Filed: February 05, 2004
For: NAIL POLISH CONTAINER

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 14, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because none of the original paperwork gave power to the Attorneys of customer number 33797. The attorney Eugene J.A. Gierczak signing the request does not have power of attorney in this application. There is no record of power of attorney ever being given to the attorney making the request. The power of attorney was furthermore revoked by the inventor on June 14, 2004. The mailing address will be changed to the sole applicant Robin Gibson.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/pav: 7/30/04

CC: Robin Gibson
RR#1
Cannington, ON
L0E 1E0
CANADA

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13TH FLOOR
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Kling, et al.	:	DECISION ACCORDING STATUS
Application No. 10/771,327	:	UNDER 37 CFR 1.47(a)
Filed: February 5, 2004	:	
Attorney Docket No. CING02-015	:	

This is in response to the petition under 37 CFR 1.47(a), filed August 2, 2004.

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

Petitioner has shown that non-signing inventor Zhong has refused to sign the declaration after having been presented with the application papers.

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

The matter is being forwarded to Group Art Unit 2165 for examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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JOYCE ZHONG
110 CATHERINE LN
BRIDGEWATER NJ 08807

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OFFICE OF PETITIONS

In re Application of Brian Kling, Joyne Zhong Application No. 10/771,327 Filed: February 5, 2004 Title: System and Method for Self Recovering Real-Time Data Feed Compression and Archiving	: : : : : : :	LETTER

Dear Ms Zhong:

You are named as a joint inventor in the above-identified United States patent reissue application filed under the provisions of 35 USC 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, agent 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 Cliff Congo at (571)272-3207. 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).

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Lawrence D. Eisen
Shaw Pittman LLP
1650 Tysons Blvd
14th Floor
McLean VA 22012
703-770-7900

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40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Fulford, et al.	:	DECISION ACCORDING STATUS
Application No. 10/771,334	:	UNDER 37 CFR 1.47(a)
Filed: February 5, 2004	:	
Attorney Docket No. DSTM 16267-8	:	

This is in response to the petition under 37 CFR 1.47(a), filed July 6, 2004. The petition was recently forwarded to the Office of Petitions for consideration.

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

Petitioner has demonstrated that inventors Martin and Zaddi have refused to sign the declaration after having been presented with the application papers.

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

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

Telephone inquiries related to 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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DANIEL MARTIN
222 RUISSEAU ST LOUIS OUEST
MARIEVILLE QUEBEC
CANADA J3M 1P1

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DEC 06 2007

OFFICE OF PETITIONS

In re Application of :
Roland Fulford, Daniel Marin, El Hadi :
Zaddi :
Application No. 10/771,334 :
Filed: February 5, 2004 :
Title: Process for Regeneration of an :
Elastomer from Scrap :

LETTER

Dear Mr. Martin:

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

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record 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 Cliff Congo at (571)272-3207. 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).

Cliff Congo
Petitions Attorney
Office of Petitions

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EL HADI ZADDI
931 PICARD
THETFORD MINES
QUEBEC CANADA G6G 7S3

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OFFICE OF PETITIONS

LETTER

In re Application of :
Roland Fulford, Daniel Marin, El Hadi :
Zaddi :
Application No. 10/771,334 :
Filed: February 5, 2004 :
Title: Process for Regeneration of an :
Elastomer from Scrap :

Dear Mr. Haddi:

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

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record 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 Cliff Congo at (571)272-3207. 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).

Cliff Congo
Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Daryl S. Mileaf	:	
Application No. 10/771,342	:	DECISION GRANTING PETITION
Filed: February 5, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2662-163	:	

This is a decision on the petition, filed April 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 under a multinational treaty on November 19, 2004, requiring publication of application eighteen months after filing. 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 under a multinational treaty.

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 October 6, 2005, accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 3653 for examination in due course.

Karen Creasy

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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MAY 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

REED SMITH LLP
Suite1400
3110 Fairview Park Drive
Falls Church VA 22042

In re Application of
Hiromi Matsushige, et al.
Application No. 10/771,379
Filed: February 5, 2004
For: **DISK ARRAY APPARATUS AND DATA RELAY METHOD OF THE DISK ARRAY APPARATUS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 20, 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.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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

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MAR 22 2006

Technology Center 2100

In re Application of:
Y. WATANABE, et al.
Application No. 10/771,453
Filed: February 5, 2004
For: STORAGE SYSTEM, AND CONTROL MEHTOD, JOB SCHEDULING PROCESSING METHOD, AND FAILURE HANDLING METHOD THEREFOR, AND PROGRAM FOR EACH METHOD

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petitions, filed on 27 July 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

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

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

Applicant's submission of 27 July 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

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AUG 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Masashi NAKANISHI et al.
Application No. 10/771,455
Filed: February 5, 2004
For: DISK ARAY APPARATUS AND CONTROL METHOD FOR DISK ARRAY APPARATUS

DECISION ON PETITION TO MAKE SPECIAL

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

The petition is **GRANTED**.

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

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

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

Applicant's submission of June 28, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/22/06

TO SPE OF : ART UNIT 3611

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/771456** Patent No.: **6920712**

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.

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

Comments: The amendment to the abstract has not been entered because it is with respect to the original abstract and not the abstract of the printed patent as all the other amendments. All the amendments have been entered except the amendment to abstract.

Lesley D Morris — SPE

3611 — Art Unit

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APR 0 4 2005

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TECHNOLOGY CENTER 2100

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

In re Application of: Kanai
Application No. 10/771,465
Filed: February 5, 2004
For: STORAGE DEVICE CONTROLLING DEVICE AND CONTROL METHOD FOR STORAGE DEVICE CONTROLLING DEVICE

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

This is a response to the petition filed November 10, 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 November 10, 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 merely paraphrase one or two paragraphs of each reference (as in the discussion of U.S. Publication No. 2003/0023784, **which paraphrases the first sentence of section 0037)** accompanied by a single statement that the references do not include certain features of the claimed invention. The applicant should also discuss each independent claim in view of the references cited. For example, the applicant merely glazes over claim 1 and the Chilton reference as if the features of claim 1 are included in all of the claims and the features of the Chilton reference are the only features taught by the other references. However, the feature "wherein the second processor transmits information indicating the storage position of the data in the second memory **to the first processor"** has not been set forth in claim 3; the data specified in the quoted portion directly above appears to be "data transfer information" in claim 4; and the feature in which "the first processor writes into the third memory data transfer information containing information indicating the storage position of the data in the first memory **and information indicating the storage position of the data in the second memory"** and the feature in which "the data transfer device reads out the data transfer information from the third memory **and controls the data transfer information",** has not been set forth in claim 6. 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 4/1/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

JC

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Mattingly, Stanger & Malur, P.C.
1800 Diagonal Rd., Suite 370
Alexandria, Virginia 22314

MAILED

JUL 0 5 2005

Technology Center 2100

In re Application of: Kanai
Application No. 10/771,465
Filed: 5 February 2004
For: STORAGE DEVICE CONTROLLING DEVICE AND CONTROL METHOD FOR STORAGE DEVICE CONTROLLING DEVICE

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

This is a decision on the Request for Reconsideration filed 4 May 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 10 November 2004, and dismissed in the decision mailed 4 April 2005.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

Brian L. Johnson
Special Program Examiner 6/30/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Jin-Soo Park	: DECISION ON REQUEST FOR
Patent Number	: 7657274	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/771,474	: 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 **1037** 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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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 05/18/2010

Applicant : Jin-Soo Park
Patent Number : 7657274
Issue Date : 02/02/2010
Application No : 10/771,474
Filed : 02/04/2004

: 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 **1135** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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Paper No.

F. CHAU & ASSOCIATES, LLP
SUITE 501
1900 HEMPSTEAD TURNPIKE
EAST MEADOW, NY 11554

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SEP 16 2004

OFFICE OF PETITIONS

In re Application of :
Jung-Bae Lee :
Application No. 10/771,488 :
Filed: February 2, 2004 : ON PETITION
Attorney Docket Number: :
8729-214 DIV (SS-15661-US) :

This is a decision on the Petition to Withdraw Notice to File Missing Parts of Nonprovisional Application, filed August 12, 2004, requesting the application be accorded a filing date of February 2, 2004, including 2 sheets of Declaration and Power of Attorney.

The petition is **granted**.

The application was filed on February 2, 2004. However, on June 1, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, noting that a filing date had been accorded the application; however, the oath or declaration was missing from the application.

In response, Petitioner files the instant petition wherein Petitioner avers that 2 sheets of Declaration and Power of Attorney were originally filed with the application on February 2, 2004, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 2 sheets of Declaration and Power of Attorney on February 2, 2004.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 2 sheets of Declaration and Power of Attorney on February 2, 2004. Petitioner has also re-submitted 2 sheets of Declaration and Power of Attorney with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The copy of 2 sheets of Declaration and Power of Attorney, supplied on April 24, 2004, have been entered and made of record.

No fee has been charged to 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 February 2, 2004, and an indication that 2 sheets of Declaration and Power of Attorney were present on filing, using the copy of 2 sheets of Declaration and Power of Attorney, filed on April 24, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

COPY MAILED
SEP 25 2008

In re Application of Boris A. Maslov Application No. 10/771,496 Filed: February 5, 2004 Attorney Docket No. 544092000120	: : : : : :	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 28, 2005.

The request is **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 November 3, 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 correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MORRISON & FOERSTER
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

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SEP 26 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Motoaki Wakui et al	:	
Application No. 10/771,497	:	
Filed: February 5, 2004	:	
Attorney Docket No. 492322016400	:	

This is a decision on the petition, filed September 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 31, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2822 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No. _____

Date : September 26, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Motoaki Wakui et al
Application No. :10/771,497
Filed :February 5, 2004

The above-identified application has been assigned Patent No. 6,953,737 and an issue date of October 11, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 11, 2005:

"All reference to Patent No. 6,953,737 to Motoaki Wakui et al of Japan for MANUFACTURING METHOD OF SEMICONDUCTOR DEVICE appearing in the Official Gazette of October 11, 2005 should be deleted since no patent was granted."

Karen Creasy

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

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

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Jae-hwang Lee	: DECISION ON REQUEST FOR
Patent Number	: 7599330	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/771,508	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1234** 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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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

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MAR 18 2005

OFFICE OF PETITIONS

In re Application of	:
Aguila, et al.	: DECISION REFUSING STATUS
Application No. 10/771,519	: UNDER 37 CFR 1.47(a)
Filed: February 4, 2004	:
Atty. Dkt. No.: SPV-041.03	:
For: METHOD OF TREATING ADDICTION	:
OR DEPENDENCE USING A LIGAND FOR A	:
MONOAMINE RECEPTOR OR TRANSPORTER	:

This decision is in response to the petition under 37 CFR 1.47(a), filed December 8, 2004.

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

Petitioner has shown that inventor James Hauske 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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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James Hauske
41 Lowell Road
Concord, MA 01742-1706

In re Application of :
Aguila, et al. :
Application No. 10/771,519 : LETTER
Filed: February 4, 2004 :
Atty. Dkt. No.: SPV-041.03 :
For: METHOD OF TREATING ADDICTION :
OR DEPENDENCE USING A LIGAND FOR A :
MONOAMINE RECEPTOR OR TRANSPORTER :

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MAR 18 2005

OFFICE OF PETITIONS

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should 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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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MAR 20 2008

In re Application of	:	
David **Oliwa**	:	
Application No. 10/771,557	:	DECISION ON PETITION
Filed: February 03, 2004	:	
Attorney Docket No. 6806P001	:	

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**.

This application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 27, 2007, which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 28, 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.

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 3761 for appropriate action by the Examiner in the normal course of business on the reply received

David A. Bucci
Petitions Examiner
Office of Petitions

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PAUL S. MADAN
MADAN, MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057-1130

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of
James B. Crews
Application No. 10/771,563
Filed: February 4, 2004
Attorney Docket No. 304-27440-USC1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 30, 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 June 23, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed March 23, 2006. Accordingly, the date of abandonment of this application is June 24, 2006. A Notice of Abandonment was mailed on July 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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HOWARD S. REITER, ESQ.
158 PROSPECT HILL
NEW MILFORD, CT 06776

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FEB 06 2006

OFFICE OF PETITIONS

In re Application of :
Liviu Marian :
Application No. 10/771,578 :
Filed: February 3, 2004 :
Title of Invention: :
METHOD AND APPARATUS FOR :
ATTACHING ARTICLE :
PROCESSING STEM :

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 22, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 11, 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 April 12, 2005. A Notice of Abandonment was mailed on August 16, 2005.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). A response to the January 11, 2005 Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 1734 for processing of the response, filed October 22, 2005, 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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SILICON VALLEY PATENT GROUP LLP
2350 MISSION COLLEGE BOULEVARD
SUITE 360
SANTA CLARA, CA 95054

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AUG 24 2005

OFFICE OF PETITIONS

In re Application of	:	
Hamza Yilmaz	:	
Application No. 10/771,593	:	DECISION GRANTING PETITION
Filed: February 2, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. YMZ004 US	:	

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

The petition is **GRANTED**.

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

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

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

This matter 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 Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), 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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JUL 12 2005

In re Application of MIZUMAKI, MASAO
Appl. No.: 10/771,600
Filed: February 04, 2004
For: MOTOR

WITHDRAWAL FROM ISSUE
37 CFR 1.313

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have been paid. If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Richard Seidel
Director
Patent Examining Technology Center 2800

COWAN LIEBOWITZ & LATMAN P.C.
JOHN J TORRENTE
1133 AVE OF THE AMERICAS
1133 AVE OF THE AMERICAS
NEW YORK, NY 10036

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Paper No.

STRIKER, STRIKER & STENBY
103 East Neck Road
Huntington, NY 11743

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JUL 1 6 2004

OFFICE OF PETITIONS

In re Application of Lang et al. Application No. 10/771,602 Filed: February 4, 2004 Atty Docket No. 2781	DECISION ON PETITION

This is a decision on the "PETITION TO ACCORD PATENT APPLICATION A FILING DATE OF FEBRUARY 4, 2004," filed May 19, 2004. In effect, applicants requests that the above-identified application be accorded a filing date of February 4, 2004, with figure 7 considered a part of the original application disclosure.

Application papers in the above-identified application were deposited on February 4, 2004. However, on May 5, 2004, the Office of Initial Patent Examination mailed applicants a "Notice of Omitted Items in a Nonprovisional Application." Applicants were thereby advised that the application had been accorded a filing date; however, figure 7 described in the specification appeared to have been omitted from the application.

Petitioner acknowledges that it does not appear that the sixth drawing sheet, containing figure 7, was filed with the subject application. Petitioner states, however, that a Priority Document was filed with the application and the Priority Document contained Figure 7. Petitioner submits a copy of Figure 7 on petition.

A review of the application as filed on February 4, 2004, reveals that the Priority Document was among the papers received on February 4, 2004. In addition, the Priority Document included Figure 7 as stated by applicants. Thus, it is concluded that Figure 7, was present in the application on filing, albeit, in the Priority Document.

In view thereof, the petition is **GRANTED**.

The petition fee has been debited to Deposit Account No. 19-4675, as authorized.

The application is being returned to the Office of Initial Patent Examination for reprocessing with **a filing date of February 4, 2004**, using the five (5) sheets of drawings containing Figures 1-6 supplied on February 4, 2004, and the one (1) sheet of drawings containing figure 7 supplied on petition filed May 19, 2004, and for indication in Office records that six (6) sheets of drawings were present on filing.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ___

DATE : 1/29/08

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/771609 Patent No: 6983839 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.

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

Comments: Formal matter only

SPE

3728
Art Unit

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KNOBLE YOSHIDA & DUNLEAVY, LLC
Eight Penn Center, Suite 1350
1628 John F. Kennedy Blvd.
Philadelphia PA 19103

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In re Application of	:	
Seidita	:	
Application No. 10/771,614	:	ON PETITION
Filed: February 4, 2004	:	
Attorney Docket No. CCK-0122	:	

This is a decision on the petition under 37 CFR 1.181, November 14, 2006, to withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed on April 7, 2005, that required reply within three (3) months of the mail date of the correspondence. No extension of time or reply being received in *this* application, the Office contended it became abandoned on July 8, 2005. A Notice of Abandonment was mailed on November 16, 2005.

Petitioner asserts that a proper response was in fact timely deposited with the USPS on October 7, 2005 and received in the Office on October 13, 2005. In support, petitioner submitted a copy of his itemized, return receipt postcard dated stamped October 13, 2005 by the Office and a copy of the correspondence listed on the postcard – a petition for a three month extension of time, an amendment, and a check for $1,020.00.

The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on October 13, 2005. MPEP 503. The amendment and the extension of time contain proper Rule 1.8 certificates of mailing that attest the correspondence was deposited in first class mail on October 7, 2005. October 7, 2005 was within the extendable period for response to the April 7, 2005 non-final Office action.

A review of the copy of the amendment and extension of time reveals that applicant listed an incorrect application number in the header. Applicant typed: "Application Number: **10/241,416**." (Emphasis added). It is noted that the instant petition cites the same incorrect application number.

Even though petitioner cited the wrong application number, under MPEP 502, " A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number...." The undersigned believes that a relatively simple review of Office records would have yielded the correct application number to enable the Office to match the October 13, 2005 correspondence with this application file. A cross-referencing of any of the accurate identifiers found on the correspondence with Office database records would have revealed the error.

Therefore, the response to the April 7, 2005 non-final Office action was timely filed. Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

No petition fee has been or will be charged in connection with this matter. The correspondence filed on October 13, 2005 will be moved to application no. 10/771,614. The present petition has already been moved to the correct application file. The $1,020.00 extension of time fee filed on October 13, 2005 will be moved to application no. 10/771,614's financial records.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 3754 for consideration of the amendment filed on October 13, 2005 (certificate of mailing date October 7, 2005).

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

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

United States
Patent And
Trademark Office

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PETITION DECISION

03/19/04

James Thompson
Weingarten, Schurgin, Gagnebin, & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/771626 received on 03/08/04 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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NORM GITIS
10131 FIRWOOD DRIVE
CUPERTINO CA 95014

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OFFICE OF PETITIONS

In re Application of :
Gitis, et al. :
Application No. 10/771,632 : ON PETITION
Filed: February 5, 2004 :
Title: Method and Apparatus for :
Determining Characteristics of Thin
Films and Coatings on Substrates

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 1, 2006.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The petition is not signed by all of the inventors. Pursuant to 37 CFR 1.33(b), papers filed in an application must be signed by a registered attorney or agent, an assignee, or all of the applicants (inventors) for patent.

Before the petition can be considered on the merits, Petitioner must resubmit a copy of the petition, bearing a signature from all inventors (or a registered attorney, agent, or assignee).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Renger et al.	:	
Application No. 10/771,648	:	
Filed: February 4, 2004	:	ON PETITION
Attorney Docket No. HENK-0129/H-5328	:	

This is in response to the petition filed on June 12, 2006, entitled "Petition Under 37 CFR 1.182 To Withdraw Petition For Revival Pursuant To 37 CFR § 1.137(b) Filed March 10, 2006."

On September 2, 2005, the Office mailed a final Office action, which set a three-month shortened statutory period to respond. In the absence of a reply, the application became abandoned on December 3, 2005. On March 10, 2006, petitioners submitted a petition under 37 CFR 1.137(b) (and fee), an RCE (and fee), and an amendment. On June 12, 2006, petitioners filed the present petition, accompanied by the requisite petition fee.

Petitioners wish to withdraw the petition under 37 CFR 1.137(b), filed on March 10, 2006, to allow the application to remain abandoned. Additionally, petitioners request that the Office refund the $1,500.00 petition fee and the $790.00 RCE fee.

As no decision on the merits of the petition under 37 CFR 1.137(b) has been reached, petitioner may withdraw the petition. Accordingly, the petition under 37 CFR 1.137(b) is **dismissed** as moot, and the application will remain abandoned.

In view of the abandonment status of the application, the RCE filed on March 10, 2006, is considered improper. Therefore, petitioners are entitled to a refund of the $790.00 RCE fee.

As to the request for a refund of the $1,500.00 fee for filing the petition under 37 CFR 1.137(b) on March 10, 2006, the Office notes:

> [T]he phrase '[o]n filing' in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

MPEP 711.03(c)(III)(B).

Accordingly, the Office lacks the discretion to refund the $1,500.00 fee as it is required by statute on filing the petition regardless of the disposition of the petition.

In summary, the petition under 37 CFR 1.182 is **granted** only to the extent that the petition under 37 CFR 1.137(b) is withdrawn and petitioners will receive a refund of the $790.00 RCE fee. The Office further notes that petitioners' action is considered an **intentional act** to abandon the application.

The $790.00 RCE fee will be refunded to the Deposit Account.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN T. WINBURN
BSH HOME APPLIANCES CORPORATION
100 BOSCH BOULEVARD
NEW BERN, NC 28562

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OFFICE OF PETITIONS

In re Application of
Michael Steffl et al
Application No. 10/771,659
Filed: February 4, 2004
Attorney Docket No. 2001P15152WOUS

: 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 November 22, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/EP02/09397, filed August 22, 2002, as set forth in the Application Data Sheet submitted with the petition.

The petition is DISMISSED.

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

It is noted that the issue fee in this case was paid on August 3, 2005, which date precedes the date of filing of the instant petition and the amendment.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

If petitioner herein desires to have the priority data appearing in the Application Data Sheet considered by the Examiner, compliance with the provisions of 37 CFR 1.313(c) must be satisfied. Accordingly, petitioner should consider filing a petition under 37 CFR 1.313(c)(2) and a Request for Continued Examination under 37 CFR 1.114 to have the priority data in the Application Data Sheet of November 22, 2005 considered by the examiner. The petition to withdraw from issue should also be accompanied by a renewed petition under 37 CFR 1.78(a)(3).

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

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

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

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

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

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MAY 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Michael Steffl	:	
Application No. 10/771,659	:	DECISION ON PETITION
Filed: February 4, 2004	:	UNDER 37 CFR 1.183
Attorney Docket No. 2001P15152WOUS	:	

This is a decision on the petition filed March 20, 2006, which is being treated as a renewed petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/EP02/09397, filed November 21, 2001, as set forth in the Application Data Sheet (ADS) received November 22, 2005. This is also a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t).

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

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

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 requirements noted above have been satisfied. However, as noted in the decision mailed

April 20, 2006, petitioner must now file a petition to withdraw from issue under 37 CFR 1.313(c)(2) or 1.313(c)(3) as the issue fee has been paid. No amendments to the application will be considered under 37 CFR 1.312 after payment of the issue fee unless accompanied by a grantable petition to withdraw from issue. If the petition is filed under 37 CFR 1.313(c)(2), the petition must be accompanied by a request for continued examination pursuant to the provisions of 37 CFR 1.114. The Application Data Sheet can be the submission requirement of 37 CFR 1.114. If the petition is filed under 37 CFR 1.313(c)(3), the petition should also be accompanied by a letter of express abandonment in favor of the filing of a continuing applicant pursuant to the provisions of 37 CFR 1.53(b). *Note also* MPEP § 1481.

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

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

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

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

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of	:	
Gerd WILSDORF et al.	:	DECISION ON PETITIONS
Application No. 10/771,660	:	UNDER 37 CFR 1.183 AND
Filed: February 4, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P16029WOUS	:	

This is a decision on the request to withdraw a petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/08785, filed August 6, 2002, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

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

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

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

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

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

This application is being forwarded to the examiner of Technology Center Art Unit 2875 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of	:
Wilfried RUCKERT et al.	: DECISION ON PETITIONS
Application No. 10/771,670	: UNDER 37 CFR 1.183 AND
Filed: February 4, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P16159WOUS	:

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/08842, filed August 7, 2002, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

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

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

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

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

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

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

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

This application is being forwarded to the examiner of Technology Center Art Unit 1724 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(The Webb Firm)
1 Becton Drive, MC 110
Franklin Lakes, NJ 07414-1880

Mail Date: 04/21/2010

Applicant	: Judith Reichenbach	: DECISION ON REQUEST FOR
Patent Number	: 7574789	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/771,679	: 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 **1055** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DAVID AND RAYMOND PATENT FIRM
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK, CA 91754

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In re Application of Young :
Application No. 10/771,711 : Decision on Petition
Filing Date: February 3, 2004 :
Attorney Docket No. USP2259A-JEF :

This is a decision on the petition under 37 CFR 1.181, filed February 8, 2008, to withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a Notice of Non-Compliant Amendment on June 4, 2007. The Notice set an extendable time period for reply of one month.

The Office did not receive a reply to the June 4, 2007 Notice. As a result, a Notice of Abandonment was mailed January 9, 2008.

Petitioner asserts the June 4, 2007 Notice was never received and requests the Office withdraw the holding of abandonment.

The evidence supplied by petitioner is sufficient to establish non-receipt of the June 4, 2007. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1655 will be informed of the instant decision and the amendment filed February 8, 2008, will be reviewed and considered 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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M1/040
EL SEGUNDO, CA 90245

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FEB 10 2005

OFFICE OF PETITIONS

In re Application of	:	
Edward J. Simburger et al	:	
Application No. 10/771,719	:	NOTICE
Filed: February 3, 2004	:	
Attorney Docket No. D-487	:	

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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1753.

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

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Burt et al.	:	DECISION ON PETITION
Application No. 10/771,737	:	TO WITHDRAW
Filed: February 3, 2004	:	FROM RECORD
Attorney Docket No. 484112-410D1	:	

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 7, 2005.

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

A review of the file record indicates that on December 29, 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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Seed Intellectual Property Law Group PLLC
701 Fifth Ave
Suite 5400
Seattle WA 98104

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David E. Grober
616 Venice Boulevard
Venice, CA 90291

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In re Application of	:	
David E. Grober	:	
Application No. 10/771,763	:	ON PETITION
Filed: February 4, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 1, 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, June 5, 2007, which set a shortened statutory period for reply of three (3) months. A three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 6, 2007. A Notice of Abandonment was mailed on February 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2862 for processing of the RCE and for appropriate action by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of :
Chakaravarthy et al. :
Application No. 10/771,775 : DECISION ON PETITION
Filed: February 2, 2004 :
Title: Using Psuedo-Pins in Generating :
Scan Test Vectors for Testing An
Embedded Core While Maintaining the
IP Contained Therein

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed May 31, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 1, 2005. A Notice of Abandonment was mailed on December 12, 2005. A Notice of Abandonment was mailed on December 12, 2005.

This petition is hereby **GRANTED**.

A three (3) month extension of time was requested with the instant petition. However, pursuant to 37 CFR 1.136 (a), an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) Petitioner is ineligible for any extensions of time, nor is an extension of time fee required to revive the application. Accordingly, $1,020.00 will be credited to deposit account 20-0668 .

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2100 for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of	:	
Chakravarthy et al.	:	
Application No. 10/771,775	:	DECISION ON PETITION
Filed: 2 February, 2004	:	
Attorney Docket No. TI-29660.1	:	

This is a decision on the petition filed on 20 September, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 4 July, 2006, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 3 April, 2006, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 8 August, 2006.

The issue and publication fees have been received.

---

[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)).

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Cantor Colburn LLP
55 Griffin South Road
Bloomfield CT 06002

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OFFICE OF PETITIONS

In re Application of
Seung-Hwan Moon et al.
Application No. 10/771,797
Filed: February 4, 2004
Attorney Docket No. 21C-0097

: ON PETITION

This is a decision on the petition filed April 9, 2007, under 37 CFR 1.313(c)(2), requesting withdrawal of the above-identified application from issue.

The petition is **DISMISSED AS MOOT** for reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on January 22, 2007, with the issue fee being due on or before April 23, 2007. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of January 22, 2007, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an 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.

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

This matter is being referred to Technology Center Art Unit 2816.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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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	: Xueshi Yang	: DECISION ON REQUEST FOR
Patent Number	: 7599450	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/771,813	: 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 **956** 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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WILLIAM H. STEINBERG
IBM CORPORATION
IP LAW DEPT. IQ0A BLDG. 040-3
1701 NORTH STREET
ENDICOTT, NY 13760

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OFFICE OF PETITIONS

In re Application of :
Magerlein, et al. :
Application No. 10/771,817 : ON PETITION
Filed: June 16, 2004 :
Attorney Docket No. FIS9-2000-0412-US2 :

This is a decision on the petition filed on June 16, 2004, requesting that the above-identified application be accorded a filing date of February 3, 2004, including Figures 3I and 3J, as described in the specification.

The application was submitted on February 3, 2004. However, on May 7, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s) In A Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, and that Figures 3I and 3J appear to have been omitted.

In response, on May 24, 2004, the instant petition and one (1) sheet of drawings containing Figures 3I and 3J were submitted.

Petitioner states:

> "The sheet 11/24 of the drawings which was inadvertently included with the present application was a duplicate of sheet 10/24 of the drawings. A new sheet 11/24 of the drawings is submitted herewith for substitution for the sheet 11/24 in the present application.
>
> Reference was made at page 1, lines 3-4 of the present application to the parent application as follows:

> "This application is a continuation in part of U.S. patent application of Brofman et al Serial No.: 09/870,531, filed on 31 May 2001."

> The parent application was published as Brofman et al. Dec. 5, 2002 as U.S. Patent Application Publication No. US 2002/0180013 A1 dated therein, copies of which are attached hereto including FIGS. 31 and 3J."

Furthermore, petitioner states Figures 3I and 3J are not new matter as they were disclosed in the parent application.

Petitioners request that, "February 3, 2004 should be maintained as the filing date for this application, since FIGS. 3I and 3J were previously disclosed in the parent application Serial No.: 09/870,531; filed on 31 May 2001."

The argument has been considered, but is not persuasive. Petitioner is reminded that while the specification filed on February 3, 2004 referred to the present application as a "continuation-in-part" of application No. 09/870,531, petitioner has not pointed to any specific language incorporating the specification or disclosure filed in the prior application into this application. The mere reference to another application is <u>not</u> an "incorporation" of anything therein into the application containing the reference. See <u>In re Seversky</u>, 177 USPQ 144, 146 (C.C.P.A. 1973) and <u>dart industries, inc. v. Banner</u>, 207 USPQ 273, 276 (D.C. Cir. 1980). Additionally, it should be noted that the #5 box for Incorporation By Reference on the Utility Patent Application Transmittal, submitted February 3, 2004, was <u>not</u> marked.

The Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the official file reveals Figures 3I and 3J were omitted. Since Figures 3I and 3J and the replacement page containing Figures 3I and 3J, were not a part of the papers filed February 3, 2004, the application cannot be accorded the February 3, 2004 filing date with either of the Figures as part of the original disclosure of this application. As such, the petition must be <u>dismissed</u>.

However, petitioner states, "if the [petition] is not granted, please accept the sheet of drawings submitted and grant the filing date of the receipt thereof by the United States Patent and Trademark Office."

Accordingly, the filing date of the above-identified application shall be the date the date of submission of Figures 3I and 3J, June 16, 2004.

The application is entitled to a filing date of June 16, 2004, the date of receipt of Figures 3I and 3J.

The application will be forwarded to The Office of Initial Patent Examination for further processing with a filing date of June 16, 2004, using the copy of Figures 3I and 3J, submitted on that date.

Telephone inquiries should be directed to the undersigned at (703) 306-9200.

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

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Paper No. 060204

JUN 18 2004

SEED Intellectual Property Law Group PLLC
701 Fifth Avenue
Suite 6300
Seattle, WA 98104-7092

In re Application of:	:	
Jessica Wang.	:	DECISION ON PETITION
Serial No.: 10/771,841	:	TO MAKE APPLICATION
Filed: February 04, 2004	:	SPECIAL
Attorney Docket No.: **910149.401C1**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(d), filed May 14, 2004, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item II: Infringement.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, Section II, must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(h) and a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

The petition satisfies the above-listed requirements for special status.

Accordingly, the petition is **GRANTED**.

The application 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.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
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P.O. BOX 920353
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In re Application of	:	
Lenoir E. Zaiser et al	:	
Application No. 10/771,843	:	DECISION ON PETITION
Filed: February 4, 2004	:	
Attorney Docket No. 2173.2007-001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed October 25, 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 Technology Center AU 3746 for appropriate action by the Examiner in the normal course of business on the reply received September 29, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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CONCORD, MA 01742-9133

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OFFICE OF PETITIONS

In re Application of	:	
Zaiser et al.	:	DECISION ON PETITION
Application No. 10/771,843	:	TO WITHDRAW
Filed: February 4, 2004	:	FROM RECORD
Attorney Docket No. 2173.2007-001	:	

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, 2006.

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

A review of the file record indicates that on February 17, 2006 the power of attorney to Hamilton, Brook, Smith & Reynolds, P.C. was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: R.D. Johnson & Associates, P.C.
20 Pickering Street
P.O. Box 920353
Needham MA 02492

UNITED STATES PATENT AND TRADEMARK OFFICE

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KRUMHOLZ & MENTLIK
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OFFICE OF PETITIONS

In re Application of
Solyom et al.
Application No. 10/771,847
Filed: February 3, 2004

Attorney Docket No. IDR0108CIP-USA
Title of Invention: Novel Substituted 2,3-Benzoidiazepine Derivatives

ON PETITION

This is a decision on the petition under 37 CFR §1.181 filed July 17, 2006 to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.

This above-identified application became abandoned for failure to file a complete response to a Notice to File Missing Parts which was mailed on May 5, 2004. The Notice to File Missing Parts set an extendable two (2) month period for reply. A reply was submitted on October 7, 2004. A three month extension of time was obtained under the provisions of 37 CFR §1.136(a).[1] A Notice of Incomplete Reply was mailed on October 25, 2004, stating that the filing date and additional claim fees had not been provided. Accordingly, this application became abandoned on October 6, 2004. This decision precedes the mailing of a Notice of Abandonment.

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[1]It is noted that applicant required a four month extension of time fee. A three month extension of time required a reply by October 5, 2004. The certificate of mailing which accompanied the reply shows a date of October 7, 2004. An additional $550.00 is required.

Petitioner maintains that a response to the Notice to File Missing Parts was mailed on October 5, 2004. Petitioner states the response included a general authorization to charge any necessary fees and thus the filing and additional claim fees should have been charged.

A review of the reply submitted on October 7, 2004 shows a general authorization to charge the deposit account was present. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

This application is being forwarded to Office of Initial Patent Examination for further processing including charging applicants an additional $550.00 towards the four month extension of time fee which was required on October 7, 2004.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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CANTON, OH 44718-3615

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OFFICE OF PETITIONS

In re Application of: Michael A. Sanzone :
Application No. 10/771,881 : NOTICE
Filed: February 4, 2004 :
Attorney Docket No. 1017001US1AP :

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 Technology Center Art Unit 1734, to await a response to the Restriction Requirement mailed November 22, 2004.

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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UNITED STATES DEPARTMENT OF COMMERCE
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Susan M. Donahue
Rockwell Automation
704-P, IP Department
1201 South 2nd Street
Milwaukee, WI 53204

Mail Date: 04/21/2010

Applicant	: Gregory A. Majcher	: DECISION ON REQUEST FOR
Patent Number	: 7636866	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/771,891	: 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 **1424** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
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OFFICE OF PETITIONS

In re Application of
Massimo Malini
Application No. 10/771,905
Filed: February 4, 2004
Attorney Docket No. BUGZ2 00215

ON PETITION

This is a decision in response to the paper styled "Petition to Reinstate First Filing Date", filed July 28, 2004 and treated under 37 CFR 1.53, requesting a filing date of February 4, 2004.

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

The instant application was deposited with the USPTO on February 4, 2004. On May 4, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Application" indicating that the application was deposited without a specification or drawings and which set a two (2) month shortened statutory period for reply.

In response, on May 12, 2004, *inter alia,* a specification and three (3) sheets of drawings were submitted. As indicated in the Notice mailed May 4, 2004, the filing date accorded the application was the date of receipt of the specification and drawings.

Comes now petitioner with a copy of a postcard receipt date-stamped by the USPTO on February 4, 2004. Because the return postcard receipt date-stamped February 4, 2004 properly itemizes the contents of the application package in accordance with MPEP § 503, the Office concludes that a specification and three (3) sheets of drawings were filed on February 4, 2004 with the application papers but that the specification and drawings were misplaced in the office. Further, the postcard receipt lacks any notation of non-receipt of any item listed. The office apologizes for any inconvenience occasioned by the loss of the drawings.

In view of the foregoing, the **petition to accord a filing date of February 4, 2004** will be accorded this application. The petition fee in the amount of $130.00 will be credited to petitioner's deposit account no. 06-0308 as no fee is due.

This file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of February 4, 2004 using the specification and three (3) sheets of drawings supplied on May 12, 2004.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Glock :
Application No. 10/771,914 : ON PETITION
Filed: February 4, 2004 :
Attorney Docket No. HPBC C-95A :
For: SYSTEM FOR ACTIVATING A WEAPON WITH AN IDENTIFICATION MECHANISM

This is a decision on the petition under 37 CFR 1.181, filed February 22, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the final Office action, mailed June 20, 2007, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on September 21, 2007 for failure to reply to the June 20, 2007 final Office action. A Notice of Abandonment was mailed on December 27, 2007.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that a request for a three month extension of time and a Notice of Appeal were timely filed on certificate of mailing date December 20, 2007 and received in the Office on December 26, 2007. The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records show that the required three month extension of time fee and the required Notice of Appeal fee were charged on accounting date December 27, 2007. The mailroom date for the payments was December 26, 2007. Therefore, the three month extension of time and the Notice of Appeal were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the December 27, 2007 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

The application file will be forwarded to Technology Center A.U. 3641 to await receipt of an Appeal Brief.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

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

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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of	:	
Gerd WILSDORF	:	
Application No. 10/771,923	:	ON PETITION
Filed: February 4, 2004	:	
Attorney Docket No. 2001P16031WOUS	:	

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, seeking waiver of the rules where they require the surcharge of 37 CFR 1.17(t) as a component of a petition under 37 CFR 1.78(a)(3). This is also a decision on the petition under 37 CFR 1.78(a)(3), filed March 20, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 and 365(c) for the benefit of priority to the prior-filed PCT Application No. PCT/EP/008841, filed August 7, 2002 set forth in the concurrently filed Application Data Sheet.

The petitions are **DISMISSED**.

Petitioner requests waiver of the requirements of 37 CFR 1.78(a)(3) as it relates to the surcharge under 37 CFR 1.17(t) to perfect petitioners claim for priority or in the alternative to grant and charge a single fee required for such grant of priority in a plurality of applications, notwithstanding 37 CFR 1.4(c). Petitioner is filing this same petition in fifty other patent applications that were filed with the same error in claiming priority (i.e., indicating upon filing that the international application was a foreign priority claim, as opposed to a domestic priority claim) and believes that petitioner should treat these errors as a single error. Thus, petitioner believes that only a single $1,370 surcharge fee under 37 CFR 1.17(t) or a $400 petition fee should be required for the same error repeated fifty-one times.

35 U.S.C. 120 states:

> An application for patent for an invention disclosed in the manner provide by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provide by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit to the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier

filed application. No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section.

37 CFR 1.78 states in part:

(a)(1) A nonprovisional application or international application designating the United States of America may claim an invention disclosed in one or more prior-filed copending nonprovisional applications or international applications designating the United States of America. In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior-filed application must be:

(i) An international application entitled to a filing date in accordance with PCT Article 11 and designating the United States of America; or

(ii) Entitled to a filing date as set forth in § 1.53(b) or § 1.53(d) and have paid therein the basic filing fee set forth in § 1.16 within the pendency of the application.

(2)(i) Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371 (b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application. These time periods are not extendable. Except as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(i) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121, or 365(c) to such prior-filed application. The time periods in this paragraph do not apply if the later-filed application is:

(A) An application for a design patent;

(B) An application filed under 35 U.S.C. 111 (a) before November 29, 2000; or

(C) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

(iii) If the later-filed application is a non-provisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence(s) following the title.

(iv) The request for a continued prosecution application under § 1.53(d) is the specific reference required by 35 U.S.C. 120 to the prior-filed application. The identification of an application by application number under this section is the identification of every application assigned that application number necessary for a specific reference required by 35 U.S.C. 120 to every such application assigned that application number.

(3) If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending non-provisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;

(ii) The surcharge set forth in § 1.17(t); and

(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

37 CFR 182 states:

> All situations not specifically provide for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(f)

37 CFR 1.183 states:

> 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 of 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)

The issue at hand is not what actions petitioner has or has not taken in another patent application; rather it is whether petitioner has properly followed the statutes and regulations with the exercise of reasonable care and diligence herein. In the instant case, a review of the record indicates that this application was not filed as a 35 U.S.C. 371 application, but as a regular 35 U.S.C. 111(a) application. Therefore, it would not have been proper for the Filing Receipt to indicate that this application is a U.S. National Stage Filing of PCT/EP/08841. The originally filed Application Data Sheet only indicated a claim for priority of German application 10138888.8 filed August 8, 2001.

Circumstances resulting from petitioners', or petitioners' counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977).

However failure to know and properly apply the rules of practice before the USPTO is not a basis for seeking waiver of the rules under 1.183. Furthermore, extraordinary relief will not be considered where the rules of practice already provide an avenue for relief. It is brought to petitioner's attention that the USPTO will not normally consider an extraordinary remedy, when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982). Here, petitioner could have sought to obtain domestic priority by filing an appropriate petition under 37 CFR 1.78. Further in this regard, a standard principle of statutory construction is: *expressio unius est exclusion alterius* (the mention of one thing implies exclusion of another thing), namely absent legislative intent to the contrary, when a statute expressly provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation. See National R.R. Passenger Corp. v. National Ass'n Of R.R. Passengers, 414 U.S. 453, 458 (1974); see also Botany Worsted Mills v. United States, 278 U.S. 282, 289 (1929)("when a statute limits a thing to be done in a particular mode, it includes the negative of any other mode"). That is, the patent statute at 35 U.S.C. § 120 (and its promulgating regulation 37 CFR 1.78) provides a specific mechanism whereby an applicant may petition the USPTO to correct a priority claim. Since there is a specific mechanism in place to remedy the requested relief then it is inappropriate for the USPTO to contemplate circumventing that mechanism by creating another remedy.

The supplemental oath or declaration filed October 5, 2004 indicates that petitioner may be seeking a benefit claim under 35 U.S.C. 120 of International Application No. PCT/EP/008841 having an international filing date of August 7, 2002. If petitioner desires to claim domestic priority to the PCT application, then a petition under 37 CFR 1.78(a)(3) and the surcharge of $1,370 must be submitted. Additionally, petitioner must supply either an amendment to the first line of the specification in compliance with 37 CFR 1.121 or an Application Data Sheet referencing the claim for priority to the PCT application in accordance with 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii). The claim for priority to the German application is more appropriately set forth in either the oath/declaration or an Application Data Sheet.

Additionally, the supplemental Application Data Sheet submitted with the instant petition indicates that petitioner may be seeking a benefit claim under 35 U.S.C. 371 of International Application No. PCT/EP/008841 having an international filing date of August 7, 2002. That is, it may be that petitioner is assuming that the above-identified application papers represent the U.S. National Stage Application national stage entry under 35 USC 371 of the aforementioned international application. Petitioner is placed on notice that, as explained in MPEP 1893.03(a), the indicia present herein are that of an application filed under 35 USC 111(a) and are not the indicia of an application filed and processed under 35 USC 371. Since the initially deposited application did not clearly identify the papers as a submission to enter the national stage under 35 U.S.C. 371. See 37 CFR 1.495(g)). As such, the USPTO has treated this application as an application filed under 35 U.S.C. 111(a). See 37 CFR 1.417. Accordingly, the only way that petitioner may seek, in the instant application, to obtain the benefit of the international filing date of the prior international application is to present a proper claim under 35 USC 120 and 37 CFR 1.78(a)(3) of the prior international application, which would specify the relationship as that of continuation or, if appropriate continuation-in-part. Note further that as petitioner did not enter the national stage in the U.S., i.e., this application constitutes a "bypass" of the national stage requirements, petitioner will have to file a certified copy of the priority document, in order to perfect his claim for benefit under 35 USC 119(a) of German 10138888.8 filed August 8, 2001. See MPEP 1895.01, which states in pertinent part:

> A foreign priority claim is proper in the continuing application if the foreign application was filed within 12 months prior to the filing of the continuing application or within 12 months prior to the international filing date of the parent international application. In addition, the required claim must be made within the time period set forth in 37 CFR 1.55 (a)(1). This time period is not extendable. See MPEP § 201.14. **A certified copy of any foreign priority document must be provided by the applicant unless the parent international application has entered the national stage under 35 U.S.C. 371 and the national stage application contains a photocopy of the priority document from the International Bureau. See MPEP § 1893.03(c). In such case, the applicant, in the continuing application, may state that the priority document is contained in the national stage application** (emphasis added).

It is noted that petitioner's deposit account currently lacks enough funds to cover all the fees due under 37 CFR 1.78 for fifty-one patent applications. Failure to supply the fees promptly will result in automatic dismissal of all the petitions under 37 CFR 1.78 and further, may raise a question as to whether the delay in supplying a grantable petition is truly unintentional.

With respect to the request to refund the fees in U.S. Patent Application Nos. 10/441,653; 10/771,659; and 10/445,704 such request will not be entertained herein. See 37 CFR 1.4(c).

In view of the above, the decisions on the fifty identical petitions will be held in abeyance for a period of **ONE (1) MONTH** in order to provide petitioner time to consider filing, in each case, a request to withdraw the petitions under 37 CFR 1.183 along with either a proper petition under 37 CFR 1.78(a)(3)

in order to claim domestic priority of the desired International Application or a proper petition under 37 CFR 1.182 in order to convert the application to a National Stage Application filed under 35 U.S.C. 371. At the end of this period decisions will be rendered on the petitions pending in the related fifty patent applications.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The Application Data Sheet filed March 20, 2006 fails to properly state the relationship of PCT/EP/008841 to this application.

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

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

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In re Application of	:	
Gerd WILSDORF	:	DECISION ON PETITIONS
Application No. 10/771,923	:	UNDER 37 CFR 1.183 AND
Filed: February 4, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P16031WOUS	:	

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/08841, filed August 7, 2002, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

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

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

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

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

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

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

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

This application is being forwarded to the examiner of Technology Center Art Unit 3742 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/771,923	02/04/2004	3742	900	2001P16031WOUS	2	11	1

CONFIRMATION NO. 3494

CORRECTED FILING RECEIPT

OC000000019904840

46726
JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 08/04/2006

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

Applicant(s)

Gerd Wilsdorf, Olching, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP02/08841 08/07/2002

Foreign Applications

GERMANY DE 101 38 888.8 08/08/2001
If Required, Foreign Filing License Granted: 05/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/771,923

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Cooking device

Preliminary Class

219

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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PARAMUS, NJ 07652

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AUG 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Yong-Deok Kim :
Application No. 10/771,942 : DECISION ON PETITION
Filed: February 4, 2004 :
Attorney Docket No. 5000-1-527 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed September 6, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on December 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the corrected formal drawings, (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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OHLANDT, GREELEY, RUGGIERO &
PERLE, LLP
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CT 06901-2682

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SEP 30 2004

OFFICE OF PETITIONS

In re Application of	:	
Korin	:	
Application No. 10/771,971	:	ON PETITION
Filed: February 4, 2004	:	
Attorney Docket No. 226.7280USV	:	

This decision concerns the June 17, 2004 correspondence captioned "Petition" which is being properly treated as a petition under 37 CFR 1.53 that a drawing be considered part of the above-referenced application.

The petition is **GRANTED.**

The application was filed on February 4, 2004. On May 5, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item in a Nonprovisional Application" ("5/5/04 Notice"), stating that a Figure 21 described in the specification appeared to have been omitted from the application. It is noted that the specification filed on February 4, 2004 describes a Figure 21, but 21 sheets of drawings (Figures 1-22), not including that for Figure 21, are in the USPTO file for this application.

Petitioner asserts that the drawing of Figure 21 was filed on February 4, 2004 with the remaining application papers. In support, the application is accompanied by a copy of a postcard receipt, indicating filing in the USPTO for this application of, *inter alia*, 22 sheets of drawings. This postcard does not bear a USPTO receipt date. However, the U.S. Postal Service (USPS) web site www.usps.gov (Track & Confirm) shows that this application was deposited in the USPS "Express Mail Post Office to Addressee " service on February 4, 2004 at 4:42 pm. The Office thus concludes that the drawing of Figure 21 had been filed on February 4, 2004 and received by the USPTO, but was subsequently misplaced.

In view of the above, the petition is granted.

The 5/5/04 Notice was mailed in error and is hereby vacated.

No petition fee is owed. The $130 charged to Deposit Account No. 01-0467 has been reversed.

The application file is being returned to OIPE for further processing with a filing date of February 4, 2004, using the papers filed on that date and supplemented with the drawing of Figure 21 submitted with the instant petition; and for indicating in the USPTO record that 22 sheets of drawings (including that for Figure 21) were present on filing.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763 (before September 15, 2004), or to the undersigned at (703) 306-5683 (before September 27, 2004) or (571) 272-3203 (after September 27, 2004).

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-17-06

TO SPE OF : ART UNIT 3681

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/771977** Patent No.: **6991572**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

C Mann — **SPE**

3681 — **Art Unit**

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Mailed: JUN 18 2004 td

In re application of :
Furuno et al. : DECISION ON
Serial No. 10/771,990 : PETITION
Filed: February 3, 2004 :
For: BUMP FORMING METHOD, PRESOLDERING TREATMENT METHOD, SOLDERING METHOD, BUMP FORMING APPARATUS, PRESOLDERING TREATMENT DEVICE AND SOLDERING APPARATUS

This is a decision on the PETITION TO ACCEPT COLOR DRAWINGS OR PHOTOGRAPHS UNDER 37 C.F.R. § 1.84(a)(2) or (b)(2), filed March 29, 2004. The petition includes (1) the fee as required by 37 CFR 1.17(h), (2) three sets of the color photographs, (3) an amendment to the specification which includes the language set forth in 37 CFR 1.84(a)(2)(iv), and (4) an explanation stating why color photographs are necessary.

A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The Petition is **GRANTED**.

Tom Dunn
Supervisory Patent Examiner
Technology Center 1700

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

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09450/100K673-US2

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Mailed: JUN 18 2004 td

In re application of :
Furuno et al. : DECISION ON
Serial No. 10/771,990 : PETITION
Filed: February 3, 2004 :
For: BUMP FORMING METHOD, PRESOLDERING TREATMENT METHOD, SOLDERING METHOD, BUMP FORMING APPARATUS, PRESOLDERING TREATMENT DEVICE AND SOLDERING APPARATUS

This is a decision on the PETITION TO ACCEPT COLOR DRAWINGS OR PHOTOGRAPHS UNDER 37 C.F.R. § 1.84(a)(2) or (b)(2), filed March 29, 2004. The petition includes (1) the fee as required by 37 CFR 1.17(h), (2) three sets of the color photographs, (3) an amendment to the specification which includes the language set forth in 37 CFR 1.84(a)(2)(iv), and (4) an explanation stating why color photographs are necessary.

A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The Petition is **GRANTED**.

Tom Dunn
Supervisory Patent Examiner
Technology Center 1700

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/16/06

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/772022** Patent No.: **7040859**

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: _____

Ed Look — **SPE**

3745 — **Art Unit**

8/24/6

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Donald F. Haas
Shell Oil Company
Legal - Intellectual Property
P.O. Box 2463
Houston, TX 77252-2463

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OFFICE OF PETITIONS

In re Application of	:	
Paul M. Ayoub, et al.	:	
Application No. 10/772,023	:	ON PETITION
Filed: February 4, 2004	:	
Attorney Docket No. TH2229 (US)	:	

This is a decision on the petition styled "Petition Under Rule 1.78," filed October 21, 2004, which is being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C.§ 119(e) for the benefit of prior-filed provisional Application No. 60/445,296, filed February 5, 2003.

The petition is **DISMISSED AS MOOT**.

Petitioner has submitted on October 21, 2004, an amendment to add a new paragraph to the specification immediately following the title to include a reference to prior-filed provisional Application No. 60/445,296, filed February 5, 2003.

The instant pending nonprovisional application was filed on February 4, 2004, and was pending at the time of filing of the instant petition. While a reference to the prior-filed provisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter and the declaration filed with the above-identified application.

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

However, on the other hand, if the USPTO does not note the claim for priority to the provisional application in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of provisional Application No. 60/445,296 in the transmittal letter or the declaration filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, no petition is necessary and no fee therefore has been charged to petitioner's deposit account.

Any questions concerning this decision on petition may be directed to Sherry Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center AU 1764 for consideration by the examiner of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(6) for the benefit of prior-filed provisional Application No. 60/445,296, filed on February 5, 2003.

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

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

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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JUN 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Risan et al.	:	
Application No. 10/772,025	:	ON APPLICATION FOR
Filed: February 3, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. MOMI-025	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment Indicated in Notice of Allowance (37 C.F.R. 1.705" filed June 8, 2009. Applicant requests that the determination of patent term adjustment be corrected from eight hundred forty-five (845) days to one thousand one hundred eighteen (1,118) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed.) The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on May 6, 2008.

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

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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In re Patent No. 7,570,761	:	DECISION ON REQUEST
Risan, et al.	:	FOR
Issue Date: August 4, 2009	:	RECONSIDERATION OF
Application No. 10/772,025	:	PATENT TERM ADJUSTMENT
Filed: February 3, 2004	:	and
Atty Docket No. MOMI-025	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 5, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred and eighteen (1,118) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred and seventeen (1,117) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on February 4, 2007, and ends on May 5, 2008, the day before the RCE was filed, and is 457 days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1,117, not 1,118 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer,

from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred and seventeen (1,117)** days.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,570,761 B2

DATED : Aug. 4, 2009

INVENTOR(S) : Risan, 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 (845) days

Delete the phrase "by 845 days" and insert – by 1,117 days--

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123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

Mail Date: 04/21/2010

Applicant	: Hank Risan	: DECISION ON REQUEST FOR
Patent Number	: 7570761	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/772,025	: OF WYETH
Filed	: 02/03/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IV (TRANSMETA)
C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

Mail Date: 04/21/2010

Applicant	: Michael Pelham	: DECISION ON REQUEST FOR
Patent Number	: 7645673	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/772,029	: 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 **991** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GUOBIAO ZHANG
P.O. BOX 6182
STATELINE, NV 89449-6182

COPY MAILED

NOV 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Guobiao Zhang	:	
Application No. 10/772,053	:	ON PETITION
Filed: February 3, 2004	:	
Attorney Docket No. GB8I	:	

This is a decision on the petition filed July 19, 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 formal drawings in a timely manner in reply to the Notice of Allowance mailed February 6, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 7, 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 the formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received.

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

May 5, 2005

David J. Rikkers
Brown Rudnick Berlack Israels
One Financial Center
Boston, MA 02111

In re Application of:
Reynolds e. Moulton, III
Serial No: 10/772,073 On Petition
Filing Date: February 4, 2004
For: SELF-PROPELLED PET TOY

In response to the petitions received by fax on March 1, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed May 10, 2004. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned July 13, 2004. The notice of abandonment was mailed on June 7, 2004.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Part of Nonprovisional Application on June 3, 2004.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

90

BROWN
RUDNICK
BERLACK
ISRAELS LLP

One Financial Center
Boston, Massachusetts 02111
617.856.8200
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AKIMA-DTSV 01 MAR 2005

OIPE
85798
MAY - 5 2005
PATENT & TRADEMARK OFFICE

Fax

Facsimile

TRANSMITTAL DATE FEBRUARY 15, 2005

THIS TRANSMISSION CONSISTS OF THIS COVER SHEET AND 20 PAGE(S)

ORIGINAL DOCUMENT TO FOLLOW: YES ☐ NO ☒

If you do not receive all pages, please call Office Services at 617.856.8200

FAX NUMBER 703 308 7751

ATTENTION OF OIPE CUSTOMER SERVICE – U.S. PATENT & TRADEMARK OFFICE

TELEPHONE NUMBER

FROM David J. Rikkers

DIRECT DIAL 617.856.8382

Best Available Copy

C/M/A 21548/5 / 2581

MESSAGE

RE: ATTY. DOCKET NO. 21548/005 - U.S. SERIAL NO. 10/772,073

ATTACHED PLEASE FIND: PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(A).

1329629 v1 - 021548/0005

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Alexandra House
Ballsbridge, Dublin 4 IRL

CityPlace I
Hartford, CT 06103
860.509.6500

8 Clifford Street
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120 West 45th Street
New York, NY 10036
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121 South Main Street
Providence, RI 02903
401.276.2600

1201 Pennsylvania Ave NW Suite 325
Washington, DC 20004
202.347.2222

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION FOR PATENT APPLICATION

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

SELF-PROPELLED PET TOY

the specification of which was filed on February 4, 2004 as Application No. 10/772073.

In the event that the filing date and/or Application No. are not entered above at the time I execute this document, and if such information is deemed necessary, I hereby authorize and request my attorneys/agent(s) at Lahive & Cockfield, LLP, 28 State Street, Boston, Massachusetts 02109, to insert above the filing date and/or Application No. of said application.

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

I acknowledge the duty to disclose all information known to me that is material to patentability in accordance with Title 37, Code of Federal Regulations, § 1.56.

FOREIGN PRIORITY CLAIM

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

[x] no such foreign applications have been filed

[ ] such foreign application have been filed as follows:

EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

Application Number	Country	Date of Filing	Priority Claimed Under 35 USC 119
			___ Yes No ___
			___ Yes No ___
			___ Yes No ___

ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

Application Number	Country	Date of Filing

CLAIM FOR BENEFIT OF EARLIER U.S. PROVISIONAL APPLICATIONS

I hereby claim priority benefits under Title 35, United States Code §119(e), of any United States provisional patent application(s) listed below:

☐ no such U.S. provisional applications have been filed.

☒ such U.S. provisional application have been filed as follows:

Application Number	Date of Filing	Priority Claimed Under 35 USC 119
60/444782	February 4, 2003	x Yes No ___
		___ Yes No ___
		___ Yes No ___

CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S)

I hereby claim the benefit under Title 35, United States Code, §120 of the United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all information that is material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56 which became available to me between the filing date of the prior application and the national or PCT international filing date of this application:

[x] no such U.S./PCT applications have been filed.

[ ] such U.S./PCT application have been filed as follows:

Application Number	Relationship	Parent Application	Date of Filing

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

I hereby appoint:

All practitioners at Customer Number 00959 (listed here):

James E. Cockfield	19,162	Jeremiah Lynch	17,425	Danielle L. Herritt	43,670
Thomas V. Sarwarzynski	24,798	David J. Rikkers	43,882	Cynthia M. Soroos	53,623
Ralph A. Loren	29,325	*Maria Lamtrige Lobanik, Ph.D.		Jonathan M. Sparks, Ph.D.	53,624
Giulio A. DeConti, Jr.	31,503	Debra J. Milasincic	46,931	Meredeth C. Arnold	52,568
Elizabeth A. Hanley	33,505	David R. Burns	46,590	Peter W. Diui, Ph.D.	52,821
Amy E. Mandragouras	36,207	Sean D. Detweiler	42,482	Andrina Williams	54,559
Anthony A. Laurentano	38,220	Cynthia L. Kanik, Ph.D.	37,520	John D. Lanza	40,060
Kevin J. Canning	35,470	Theodore R. West	47,202	Cristin E. Howley, Ph.D.	55,281
June E. Remillard	38,872	Hathaway Pease	46,438	Jill A. Mello, Ph.D.	P55,450
DeAnn F. Smith	36,683	John S. Curran	50,445	Michael J. Bastian, Ph.D.	47,411
Jeanne M. DiGiorgio	41,710	Lisa M. DiRocco	31,619	Christopher J. McKenna	53,305
Megan E. Williams	43,270				

* Limited Recognition Under 37 C.F.R. § 10.9(b)

all of **Lahive & Cockfield, LLP**, 28 State Street, Boston, Massachusetts 02109, jointly, and each of them severally, my attorneys at law/patent agent(s), with full power of substitution, delegation and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the U. S. Patent and Trademark Office connected therewith.

Please mail all correspondence to David J. Rikkers at **Customer Number** 00959, whose address is:

Lahive & Cockfield, LLP
28 State Street
Boston, Massachusetts 02109

Attorney Docket No.: DGP-005

Please direct telephone calls to: David J. Rikkers at (617) 227-7400.

Please direct facsimiles to: (617) 742-4214

Full name of sole or first inventor Reynolds E. MOULTON, III	
Sole or first inventor's signature Reynolds Moulton	Date 4.20.04
Residence New York, New York	
Citizenship US	
Mailing Address 105 East 63rd Street #5B New York, New York 10021	

Full name of second inventor, if any	
Second inventor's signature	Date
Residence	
Citizenship	
Mailing Address	

Full name of third inventor, if any	
Third inventor's signature	Date
Residence	
Citizenship	
Mailing Address	

Docket No. 21548/5 (DGP-005)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Reynolds E. Moulton, III	Conf. No.:	4526
Application No.:	10/772,073	Group Art Unit:	3643
Filed:	February 4, 2004	Examiner:	Not yet Assigned
For:	SELF-PROPELLED PET TOY		

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(A)

CERTIFICATE OF FACSIMILE

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted by Facsimile to: 1-703-308-7751, OIPE Customer Service, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

By: Karen L. Corey — February 15, 2005 Date

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

Sir:

Applicant received a Notice of Abandonment under 37 CFR 1.53(f) or (g) stating that the above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts mailed on 5/10/04. In response to the Notice of Abandonment, Applicant hereby submits a Petition to Withdraw the Holding of Abandonment under 37 CRF 1.181(a).

In support of this Petition, Applicant submits the following as proof that a Response to the Notice to File Missing Parts was timely filed on June 3, 2004:

1. Copy of Notice of Abandonment Under 37 CFR 1.53(f) or (g) (2 pp.);

2. Auto-Reply Facsimile Transmission received from the U.S. Patent & Trademark Office dated June 3, 2004 acknowledging receipt of 11 pages of Response to Notice to File Missing Parts (1 pg.);

3. Copy of Lahive & Cockfield outgoing Fax Confirmation indicating that 11 pages were transmitted to the U.S. Patent and Trademark Office on June 3, 2004;

4. Response to Notice to File Missing Parts, as filed on June 3, 2004 (11 pp.); and

5. Copy of Revocation of Power of Attorney filed on October 12, 2004 (3 pp.).

To ensure that the Examiner has a complete file at the time of action on this case, Applicant also notes that subsequent to the timely-filed Response to Missing Parts, Applicant filed a Revocation of Previous Power of Attorney and a Change of Correspondence Address on October 12, 2004, an Information Disclosure Statement on December 10, 2004, and a Preliminary Amendment on January 21, 2005.

Applicant respectfully requests that the Commissioner consider the present petition which is submitted in order to withdraw the holding of abandonment. No fees are believed to be due, however, please charge Deposit Account No. 500369 for any fee necessary.

Respectfully submitted,

Brown Rudnick Berlack Israels LLP

Date: February 15, 2005

David J. Rikkers, Esq.
Registration No. 43,882
Customer No. 21710
Brown Rudnick Berlack Israels LLP
One Financial Center
Boston, MA 02111
Tel: (617) 856-8382
Fax: (617) 856-8201

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/772,073	02/04/2004	Reynolds E. Moulton III	DGP-005

CONFIRMATION NO. 4526

ABANDONMENT/TERMINATION LETTER

OC000000015131232

David J. Rikkers, Esq.
Brown Rudnick Berlack Israels LLP
One Financial Center
Boston, MA 02111

Date Mailed: 02/08/2005

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

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 05/10/2004.

- No reply was received.

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

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

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

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

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

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

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

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

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

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282.Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

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

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

Auto-Reply Facsimile Transmission

fax copy for
file / working attorney

TO: Fax Sender at 6177424214

Fax Information
Date Received: 6/3/2004 10:34:11 AM [Eastern Daylight Time]
Total Pages: 11 (including cover page)

ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received Cover Page ========>

FAX TRANSMISSION

DATE: June 3, 2004

PTO IDENTIFIER: Application Number 10/778,073-Cont. [illegible]
Patent Number

Inventor: Reynolds E. MOULTON, III

MESSAGE TO: Office of Initial Patent Examination

FAX NUMBER: (703) 872-9306

FROM: LAHIVE & COCKFIELD, LLP
David J. Sibley

PHONE: (617) 227-7400

Attorney Dkt. #: DCIP-001

PAGES (including Cover Sheet): 11

CONTENTS: Part 1 Copy of Notice (2 pages);
Fee Transmittal, in duplicate (2 pages);
Response to Notice to File Missing Parts of Application (2 pages); and
Combined Declaration and Power of Attorney (4 pages).
Charge $65.00 to deposit account 12-0080.

If your receipt of this transmission is in error, please notify this firm immediately by collect call to sender at (617) 227-7400 and send the original transmission to us by return mail at the address below.

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LAHIVE & COCKFIELD, LLP
28 State Street, Boston, Massachusetts 02109
Telephone: (617) 227-7400 Facsimile: (617) 742-4214

PAGE 1/11 * RCVD AT 6/3/2004 10:34:11 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/8 * DNIS:27 * CSID:6177424214 * DURATION (mm-ss):02-29

Confirmation Report—Memory Send

Time : Jun-03-04 09:39
Tel line 1 : 6177424214
Tel line 2 : 6177424214
Name : LAHIVE & COCKFIELD, LLP

Job number	:	110
Date	:	Jun-03 09:33
To	:	2089981703872930G-99
Document Pages	:	11
Start time	:	Jun-03 09:33
End time	:	Jun-03 09:39
Pages sent	:	11

Job number : 110 *** SEND SUCCESSFUL ***

FAX TRANSMISSION

DATE: June 3, 2004

PTO IDENTIFIER: Application Number 10/778,075-Conf. #6526
Patent Number

Inventor: Reynolds & MOULTON, III

MESSAGE TO: Office of Initial Patent Examination

FAX NUMBER: (703) 872-9306

FROM: LAHIVE & COCKFIELD, LLP
David J. Rikkers

PHONE: (617) 227-7400

Attorney Dkt. #: DOP-005

PAGES (Including Cover Sheet): 11

CONTENTS: Part 2 Copy of Notice (2 pages);
Fee Transmittal, in duplicate (2 pages);
Response to Notice to File Missing Parts of Application (2 pages); and
Combined Declaration and Power of Attorney (4 pages).
Charge $63.00 to deposit account 12-0080.

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LAHIVE & COCKFIELD, LLP
28 State Street, Boston, Massachusetts 02109
Telephone: (617) 227-7400 Facsimile: (617) 742-4214

FAX TRANSMISSION

DATE: June 3, 2004

PTO IDENTIFIER: Application Number 10/779,073-Conf. #4526
Patent Number

Inventor: Reynolds E. MOULTON, III

MESSAGE TO: Office of Initial Patent Examination

FAX NUMBER: (703) 872-9306

FROM: LAHIVE & COCKFIELD, LLP
David J. Rikkers

PHONE: (617) 227-7400

Attorney Dkt. #: DGP-005

PAGES (Including Cover Sheet): 11

CONTENTS: Part 2 Copy of Notice (2 pages);
Fee Transmittal, in duplicate (2 pages);
Response to Notice to File Missing Parts of Application (2 pages); and
Combined Declaration and Power of Attorney (4 pages).
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LAHIVE & COCKFIELD, LLP
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Telephone: (617) 227-7400 Facsimile: (617) 742-4214

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/772,073	02/04/2004	Reynolds E. Moulton III	DGP-005

CONFIRMATION NO. 4526

FORMALITIES LETTER

OC000000012576484

00959
LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON, MA 02109

Date Mailed: 05/10/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

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

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

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

- $65 Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

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

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

COPY

PTO/SB/17 (10-03)
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FEE TRANSMITTAL for FY 2004

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

[X] Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 65.00

Complete if Known	
Application Number	10/777,073 Conf #4526
Filing Date	February 4, 2004
First Named Inventor	Reynolds E. MOULTON, III
Examiner Name	Not Yet Assigned
Art Unit	N/A
Attorney Docket No.	DGP 005

METHOD OF PAYMENT (check all that apply)

[ ] Check [ ] Credit Card [ ] Money Order [ ] Other [ ] None

[X] Deposit Account:

Deposit Account Number: 12-0080

Deposit Account Name: Lahive & Cockfield, LLP

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

[X] Charge fee(s) indicated below [X] Credit any overpayment

[X] Charge any additional fee(s) or any underpayment of fee(s)

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

FEE CALCULATION

1. BASIC FILING FEE

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

SUBTOTAL (1) ($) 0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Extra Claims		Fee from below		Fee Paid
Total Claims		** =		x	=
Independent Claims		** =		x	=
Multiple Dependent					=

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

SUBTOTAL (2) ($) 0.00

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

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge – late filing fee or oath	65.00
1052	50	2052	25	Surcharge – late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive – unavoidable	
1453	1,330	2453	665	Petition to revive – unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) ($) 65.00

SUBMITTED BY				(Complete if applicable)	
Name (Print/Type)	David J. Rikkers	Registration No. (Attorney/Agent)	43,882	Telephone	(617) 227-7400
Signature				Date	June 3, 2004

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no. (703) 872-9306, on the date shown below.

Dated: June 3, 2004 Signature: (David J. Rikkers)

hereafter filed in this application by this firm) to our Deposit Account No. 12-0080, under Order No. DGP-005. Applicants request any extensions of time necessary to respond.

Dated: June 3, 2004

Respectfully submitted,

By _____

David J. Rikkers
Registration No.: 43,882
LAHIVE & COCKFIELD, LLP
28 State Street
Boston, Massachusetts 02109
(617) 227-7400
(617) 742-4214 (Fax)
Attorney/Agent For Applicant

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no. (703) 872-9306, on the date shown below.

Dated: June 3, 2004 Signature: (David J. Rikkers)

Docket No.: DGP-005
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Reynolds E. Moulton, III

Application No: 10/772,073

Filed: February 4, 2004

For: SELF-PROPELLED PET TOY

Confirmation No.: 4526

Art Unit: N/A

Examiner: Not Yet Assigned

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

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

Dear Sir:

In response to the Notice to File Missing Parts of Application – Filing Date Granted mailed May 10, 2004, Applicant respectfully submits a Combined Declaration and Power of Attorney and Part 2 Copy of Notice.

Please charge our Deposit Account No. 12-0080 in the amount of $65.00 covering the fee set forth in 37 CFR 1.16(e). The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper

DAVID J. RIKKERS
direct dial: 617 856-8382
drikkers@brownrudnick.com

October 12, 2004

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

RE: U.S. Application Serial No. 10/772,073
Filed: February 4, 2004
Applicant: Reynolds E. Moulton, III
Our Ref. No.: 21548/5

****

CERTIFICATE OF FACSIMILE

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being Facsimile transmitted to: 1-703-872-9306, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

By: Elaine E. Fabrizio
Elaine E. Fabrizio

October 12, 2004
Date

****

Dear Madam/Sir:

Enclosed please find an executed Revocation of Previous Power of Attorney (1 pg). A Change of Correspondence Address form is also enclosed.

If you have any questions, please call David J. Rikkers at (617) 856-8382. Thank you for your assistance.

Sincerely,

BROWN RUDNICK BERLACK ISRAELS LLP

By: David J. Rikkers

David J. Rikkers, Esq. (Reg. No. 43,882)
One Financial Center
Boston, MA 02111
Tel: 617-856-8382
Fax: 617-856-8201
Customer No. 21710

DJR/eef
Attachments

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
POWER OF *ATTORNEY* (and REVOCATION OF PREVIOUS POWER OF *ATTORNEY*)

Docket No. 21548/5

Application No.: 10/772,073
Filing Date: February 4, 2004
Entitled: SELF-PROPELLED PET TOY

Owner: Dogmatic Pet Products, Inc.
Address: 158 Summit Street
Brooklyn, NY 11231
US

TO THE COMMISSIONER FOR PATENTS

Honorable Sir:

I hereby appoint:

Brian L. Michaelis	Reg. No. 34,221	Joseph P. Quinn Reg. No. 45,029
Mark S. Leonardo	Reg. No. 41,443	Thomas M. Saunders Reg. No. 29,585
David D. Lowry	Reg. No. 38,538	John C. Serio Reg. No. 39,023
Peter B. Sorell	Reg. No. 44,349	Mark A. Hofer, Reg. No. 30,068
Damon A. Treitler	Reg. No. 48,377	David J. Rikkers, Reg. No. 43,882

All of the firm:

Brown Rudnick Berlack Israels LLP
One Financial Center
BOX IP
Boston MA 02111

as principal attorneys to prosecute this application, to transact all business in the Patent and Trademark Office connected with the above-referenced patent application. Applicant hereby revokes all previous powers of attorney associated with this application. Kindly note that the address of the owner has been changed.

Please direct all future correspondence to:

David J. Rikkers
Brown Rudnick Berlack Israels LLP
One Financial Center
Boston MA 02111

Dogmatic ~~Pet Products~~, Inc.

By: _____ Dated: 9·22·04
Name: Reynolds E. Moulton, III

#1297612 v1 - nikkerdj - 21548/5

PATENT

Attorne. ocket No.: 21548/5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S):	Reynolds E. Moulton, III	Confirmation No.: 4526
SERIAL NO.:	10/772,073	Art Unit No.: 3643
FILED:	February 4, 2004	Examiner: Not Yet Assigned
FOR:	*SELF-PROPELLED PET TOY*	

CERTIFICATE OF FACSIMILE

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being Facsimile transmitted to: 1-703-872-9306, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

By: Elaine E. Fabrizio — Date: October 12, 2004

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

CHANGE OF CORRESPONDENCE ADDRESS

Sir:

Please send all future correspondence for this application to:

David J. Rikkers, Esq.
Brown Rudnick Berlack Israels LLP
One Financial Center
Boston, MA 02111

Please direct all telephone calls to:

David J. Rikkers, Esq.
(617) 856-8382

A Revocation of Previous Power of Attorney is also enclosed with this form.

Respectfully submitted,

David J. Rikkers, Esq., Reg. No. 43,882
Attorney for Applicant(s)
Customer No. 21710
BROWN RUDNICK BERLACK ISRAELS LLP
One Financial Center
Boston, MA 02111
(617) 856-8382

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/10/2010

Applicant	: Oscar E. Agazzi	: DECISION ON REQUEST FOR
Patent Number	: 7656938	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/772,079	: 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 **665** 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

MAILED
FROM DIRECTORS OFFICE

OCT 05 2004

TECHNOLOGY CENTER 3600

PITTS AND BRITTIAN PC
P.O. BOX 51295
KNOXVILLE, TN 37950-1295

In re application of John McKenzie Application No. 10/772,119 Filed: February 04, 2004 For: WATERCRAFT LIFT ASSEMBLY	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on February 04, 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 birth certificate of Mr. McKenzie indicating that he is at least 65 years of age.

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 9/24/04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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.
10/772,121	02/04/2004	Jason Clay Pearson	71580/US02	4287

71466 7590 05/02/2008
LOUIS N. MORENO
P.O. BOX 511 , B-75
KINGSPORT, TN 37662

EXAMINER
SZEKELY, PETER A

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
05/02/2008	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
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Alexandria, VA 22313-1450
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glm

Mailed : 5-2-08

In re Application of	:	DECISION
Pearson et al.	:	GRANTING
Serial No. 10/772,121	:	PETITION
Filed: February 4, 2004	:	
For: POLYMER BLENDS	:	

This is a decision on the March 28, 2008 "Petition under 37 CFR 1.181(a)."

Applicant filed an appeal brief on January 4, 2008, which was followed in due course by the examiner's answer mailed February 5,2008.

The instant petition was then timely filed on March 28, 2008 and is before the Director of Technology Center 1700 for consideration. The petition requests that the examiner's answer of February 5, 2008 be deemed to contain a "new grounds of rejection."

Subsequent to the petition, a second examiner's answer was mailed on April 9, 2008. This answer appears to be substantially identical to the first answer. Accordingly applicant's petition will be treated as requesting that the April 9, 2008 be deemed to contain a new grounds of rejection also.

The petition is **GRANTED** for the reasons below.

DECISION

As background, new grounds of rejection are discussed in MPEP 1207.03:

> A new prior art reference applied or cited for the first time in an examiner's answer generally will constitute a new ground of rejection. If the citation of a new prior art reference is necessary to support a rejection, it must be included in the statement of rejection, which would be considered to introduce a new ground of rejection. Even if the prior art reference is cited to support the rejection in a minor capacity, it should be positively included in the statement of rejection. In re Hoch, 428 F.2d 1341, 1342 n.3, 166 USPQ 406, 407 n. 3 (CCPA 1970). Where a newly cited reference is added

> merely as evidence of the prior statement made by the examiner as to what is "well-known" in the art which was challenged for the first time in the appeal brief, the citation of the reference in the examiner's answer would not ordinarily constitute a new ground of rejection within the meaning of 37 CFR 41.39(a)(2).

In the instant application, the final rejection (mailed July 3, 2007) included a rejection under 35 USC 103(a) of the pending claims as being unpatentable over 24 references in a variety of permutations. The examiner's answer paired this down to a mere 8 references. In addition, two references were cited in the 'response to arguments' section, the Strand and Shih references. These references were not included in the statement of rejection, were not among the previously applied 24 references, were in fact not even previously of record.

As stated in MPEP 1207.03, any reference relied upon to support a rejection must be included in the statement of rejection. Thus Strand and Shih must be included in the examiner's statement of rejection. Further, reliance upon a new prior art reference generally constitutes a new ground of rejection, except where it is added merely as evidence of a prior statement made by the examiner as to what is "well-known" in the art which was challenged for the first time in the appeal brief. Such is not the case here, and therefore the inclusion of Strand and Shih constitutes a new grounds of rejection.

While 37 CFR 41.39(a)(2) permits the entry of a new ground of rejection in an examiner's answer mailed on or after September 13, 2004, any new ground of rejection made by an examiner in an answer must be approved by a Technology Center (TC) Director or designee, and prominently identified in the "Grounds of Rejection to be Reviewed on Appeal" section and the "Grounds of Rejection" section of the answer. Neither condition was met here, making the examiner's answer improper.

Further, MPEP 1207.02 states that 'If any rejection is withdrawn, the withdrawal should be clearly stated in the examiner's answer under subheading "Grounds of Rejection Withdrawn" in the section "Grounds of Rejection to be Reviewed on Appeal."' In the instant case, the examiner has gone from applying 24 references in the final rejection to 8 (in fact 10) references in the answer. Thus the examiner's answer should also indicate that the previous grounds of rejection have been withdrawn and replaced in their entirety with the new grounds of rejection.

As the examiner's answer contains a new ground of rejection, such not having been identified in the answer nor approved by the Director's designee, the instant petition is **GRANTED.**

Accordingly, the examiner's answers of February 5, 2008 and April 9, 2008 are hereby vacated. Per MPEP 1207.03 (IV), the examiner is required to send a corrected examiner's answer that withdraws the previous rejections, identifies the new rejection as a new ground of rejection and includes the approval of the TC Director or designee.

In accordance with 37 CFR 41.39(b), applicant may thereafter file either a request that prosecution be reopened by filing a reply under 37 CFR 1.111, or a request that the appeal be maintained by filing a reply brief or resubmitting the previously-filed reply brief, within two months from the mailing of the corrected answer. The choice of whether to re-open prosecution or to maintain the appeal will thus be left to applicant's discretion.

JMStone

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

LOUIS N. MORENO
P.O. BOX 511 , B-75
KINGSPORT TN 37662

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No.

PAUL S MADAN
MADAN, MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057-1130

COPY MAILED

SEP 22 2004

OFFICE OF PETITIONS

In re Application of :
Meister et al. :
Application No. 10/772,123 :
Filed: February 2, 2004 : ON PETITION
Attorney Docket Number: :
414-26216USD :

This is in response to the Petition filed July 12, 2004, in response to the Notice to File Corrected Application Papers.

Application papers in the above-identified application were filed on February 4, 2004. On May 6, 2004, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers, requiring replacement drawings because each Figure was not labeled consecutively, and noting that Page 1 of the specification appeared to have been omitted from the application.

In response, Applicant files the instant petition and replacement drawings, and avers that page 1 of the specification was included as the cover page, along with 16 pages of specification, 6 pages of claims, and an abstract of 1 page, for a total of 24 pages, and filed in the Office among the original application papers on February 4, 2004. Applicant has also filed replacement cover page.

A review of the cover page filed with the instant petition on July 12, 2004, reveals that the cover page is not numbered. As required in 37 CFR 1.52(b)(5), "[o]ther than in a reissue application or reexamination proceeding, the pages of the specification including claims and abstract must be numbered consecutively, starting with 1, the numbers being centrally located above or preferably below, the text."

Regarding page 1 of the specification, it is obvious from the petition that page 1 of the specification was not actually missing on February 4, 2004. Rather, the page was simply not numbered as a result of Applicant's filing error. However, the Notice mailed May 6, 2004, was correct in stating that page 1 of the specification appeared to have been omitted from the application. Therefore, the requirement to submit the omitted page set forth in the Notice will not be withdrawn.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

Accordingly, the petition is dismissed.

Applicant also submits a corrected drawing in response to the Notice.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of February 4, 2004, using the cover page and corrected drawing filed with the instant petition on July 12, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAUL S MADAN
MADAN, MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057-1130

COPY MAILED

OCT 04 2004

OFFICE OF PETITIONS

In re Application of	:	
Meister et al.	:	
Application No. 10/772,123	:	CORRECTED DECISION
Filed: February 4, 2004	:	ON PETITION
Attorney Docket Number:	:	
414-26216USD	:	

This is in response to the Petition filed July 12, 2004, in response to the Notice to File Corrected Application Papers.

Application papers in the above-identified application were filed on February 4, 2004. On May 6, 2004, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers, requiring replacement drawings because each Figure was not labeled consecutively, and noting that Page 1 of the specification appeared to have been omitted from the application.

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Applicant also submits a corrected drawing in response to the Notice.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of February 4, 2004, using the cover page and corrected drawing filed with the instant petition on July 12, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No: __

TOPE-MCKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY #311
MALIBU CA 90265

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MAY 2 5 2005

OFFICE OF PETITIONS

In re Application of
Ahmed, et al. :
Application No. 10/772,138 :
Filing Date: 3 February, 2004 :
Attorney Docket No. HRL126 :

This is a decision on the petition filed on 8 November, 2004, and in light of the allegations is considered under 37 C.F.R. §1.182.[1]

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.182 is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

Petitioner alleges that his response to the Notice of Missing Parts, mailed on 5 May, 2004, was complete and that the Office should so declare.

NOTE: Petitioner may wish to review Office records of this and any other of Petitioner's applications in Private PAIR (http://portal.uspto.gov/external/portal/pair) to note, *inter alia*, status of applications.

---

[1] The regulations at 37 C.F.R. §1.182 provide:
§ 1.182 Questions not specifically provided for.
All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in §1.17(h). [47 Fed. Reg. 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

Thereafter Petitioner needed to pay the late-filing surcharge ($130.00) and the four- (4-) month extension of time ($1,530.00) necessary to make timely the November 2004 response.

Charges to be assessed are the previously uncharged filing fee and excess claims charges, the extension of time fee, the surcharge and the petition fee, are as follows:

Basic Filing Fee and Fees for Excess Claims	$2,852.00
Extension of Time	1,530.00
Late Filing Surcharge	130.00
Petition Fee	130.00
Total	**$4,642.00**

(Because Petitioner's errors in calculation and authorization contributed to this matter the petition fee will not be refunded.)

Petitioner authorized in his November 2004 filing a credit card charge totaling $4,662.00, and the Office has charged that amount–including funds in suspense.

Thus, it appears that Petitioner has made an over-authorization/overpayment of $20.00.

CONCLUSION

Therefore, the petition under 37 C.F.R. §1.182 is **granted** to the extent that the Office acknowledges Petitioner's timely submission of authorization for the basic filing fee and fees for excess claims, and **dismissed** all other particulars, and the $20.00 overpayment is placed in suspense as a credit against a future charge.

The application is released to OIPE to for processing consistent with this decision 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

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)
6971963	2005-12-06	10772156	2004-02-03	Ketchit-006

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Scott C Harris/	Date (YYYY-MM-DD)	2010-01-28
Name	Scott C Harris	Registration Number	32030

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6971963
Issue Date: December 6,2005
Application No. 10772156
Filed: February 3,2004
Attorney Docket No. 12058-006001

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

This is a decision on the electronic petition, filed January 28,2010 ,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 January 28,2010 . 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Application of	:	
Visco et al.	:	DECISION ON PETITION
Application No. 10/772,157	:	TO MAKE SPECIAL
Filed: February 3, 2004	:	37 CFR 1.102(c)
Attorney Docket No. PLUSP036	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed January 27, 2006, to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V and under 37 CFR 1.102(c)(2)(ii) to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition under 37 CFR 1.102(c)(2)(i) is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

The petition states, "... the invention will materially enhance quality of the environment at least because, lithium metal batteries, a preferred embodiment of the present invention, do not include toxic heavy metals such as cadmium and lead found in some other commercially important batteries." Applicant's invention is considered to be merely ancillary to the possibly maintenance of the basic life-sustaining elements. There is no factual evidence that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements." The contribution of petitioner's invention, while beneficial to the environment, does not rise to the level intended by the Rule.

The petition under 37 CFR 1.102(c)(2)(ii) is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed

invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The petition states, "Because such electricity can be produced from a variety of resources, including fossil fuels, it is believed that the present invention could well contribute to the development of existing and alternative energy resources as well as the conservation of energy resources by reducing the need for less efficient power sources that consume a disproportionate amount of energy resources for the energy actually produced." This statement lacks any specifics about how the claimed invention materially contributes to items (A) or (B), above, and the above statement is inadequate to establish for the record that the invention "materially contributes to the more efficient utilization and conservation of energy resources."

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 Petitions Examiner Liana Chase at 571-272-3206.

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

This matter is being referred to the Technology Center Art Unit 1746 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Visco et al.

Application No.: 10/772,157

Filed: February 3, 2004

Title: ACTIVE METAL/AQUEOUS ELECTROCHEMICAL CELLS AND SYSTEMS

Attorney Docket No.: PLUSP036

Examiner: Monique M. Wills

Group: 1746

COMMUNICATION REGARDING RECONSIDERATION OF PETITION TO MAKE SPECIAL UNDER 37 C.F.R. SECTION 1.102 (c)

PETITION GRANTED

William Krynski,
Special Program Examiner
Technology Center 1700

MAY 3 0 2006

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

Sir:

As reflected in the Image File Wrapper for this application, a previous Petition to Make Special was filed January 27, 2006. That Petition was dismissed by an Examiner in the Office of Petitions in a decision mailed March 9, 2006. Previously, on February 14, 2006, a similar Petition in another of Applicants' applications pending in the same Art Unit had been granted. In an inquiry with the Art Unit regarding this discrepancy, the undersigned was informed that Petitions to Make Special are normally handled by the Special Programs Examiner for the relevant Technology Center, and it was suggested that the Applicants request reconsideration of the Petition to Make Special by the Special Programs Examiner for Technology Center 1700. Accordingly, reconsideration of the eligibility of this application for "special" status under 37 CFR 1.102 (c) based on the accompanying Petition is respectfully requested.

If any fees are due in connection with the filing of this paper, the Commissioner is authorized to charge such fees to Deposit Account 500388 (Order No. PLUSP036). If the

PAGE 2/6 * RCVD AT 5/18/2006 5:57:28 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/6 * DNIS:2731024 * CSID:5106630920 * DURATION (mm-ss):02-14

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

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

Mail Date: 04/20/2010

Applicant	: Steven J. Visco	: DECISION ON REQUEST FOR
Patent Number	: 7645543	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/772,157	: 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 **1209** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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Mailed: 5/20/05

In re application of :
Morton-Finger et al. : DECISION ON
Serial No. 10/772,162 : PETITION
Filed: February 3, 2004 :
For: MULTI-LAYER MONOFILAMENT AND PROCESS FOR MANUFACTURING A MULTI-LAYER MONOFILAMENT

This is a decision on the PETITION UNDER 37 CFR 1.181 TO REFUND THE EXTENSION FEE PAID on November 22, 2004.

On October 15, 2004, a restriction requirement was mailed to Applicants. The office action contained a requirement that "[I]f group I is elected, applicant is required to elect a single disclosed species for claim 5, 6, and 7." Applicants responded with an election filed November 2, 2004. In the response, applicant elected Group I and elected the species of claim 7. The examiner held that the response was non-responsive and sent out an office action requiring a new election. The occife communication did not give applicants any time period for response but rather maintained the time period set forth in the original restriction requirement of October 15, 2004. Applicant responded to the new requirement on November 22, 2004 along with a request for a one month extension of time which was granted.

On November 22, 2004 the instant petition under 37 CFR 1.181 was timely filed to formally request a refund of the extension of time fee paid on November 22, 2004.

DECISION

Section 714.03 of the MPEP states in part:

714.03 [R-2] Amendments Not Fully Responsive, Action To Be Taken
37 CFR 1.135. Abandonment for failure to reply within time period.
*****
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Where the amendment is bona fide but contains a serious omission, the examiner should:
A) if there is sufficient time remaining for applicant's reply to be filed within the time period for reply to the non-final Office action (or within any extension pursuant to 37 CFR 1.136(a)), notify applicant that the omission must be supplied within the time period for reply; or
B) if there is insufficient time remaining, issue an Office action setting a 1-month time period to complete the reply pursuant to 37 CFR 1.135(c). In either event, the examiner should not further examine the application on its merits unless and until the omission is timely supplied.

In the instant case, it is clear that the omission of the required election of species for claims 5, 6 and 7 was inadvertent. The language set forth in the original restriction requirement was confusing in that it stated a "single disclosed species for claims 5, 6 and 7" was required. It is reasonable to conclude that the examiner was asking for a single specie to be elected among the three claims rather that one specie from each claim. Because the omission was inadvertent, the examiner should have given Applicants a 30 day time period to respond to the new requirement mailed November 16, 2004. Accordingly, there was no need for an extension of time to be paid and therefore, the instant petition to refund the fee is **GRANTED.**

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

THE FIRM OF KARL F ROSS
5676 RIVERDALE AVENUE
PO BOX 900
RIVERDALE (BRONX) NY 10471-0900

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

KRIS T. FREDRIC
ATTORNEY INTELLECTUAL PROPERTY
HONEYWELL INTERNATIONAL INC
101 COLUMBIA RD., P.O. BOX 2245
MORRISTOWN, NJ 07962

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of :
Nicholas F. Busch :
Application No. 10/772,171 : ON PETITION
Filed: February 4, 2004 :
Attorney Docket No. H0006870 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2005, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed December 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 22, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of issue fee/publication fee; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of December 20, 2004 is accepted as having been unintentionally 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division to be processed into a patent.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

cc: KERMIT LOPEZ
P.O. BOX 4484
ALBUQUERQUE, NM 87196-4484

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6888712
Issue Date: May 3,2005
Application No. 10772187
Filed: February 3,2004
Attorney Docket No. KLR: 3301.0057

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

This is a decision on the electronic petition, filed June 16,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 16,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,888,712	2005-05-03	10/772,187	2004-02-03	3301.0057

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	/Kevin L. Russell/	Date (YYYY-MM-DD)	2009-06-16
Name	Kevin L. Russell	Registration Number	38292

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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WOODSIDE IP GROUP
P.O. BOX 61047
PALO ALTO, CA 94306

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Nicholas Graienski	:	
Application No. 10/772,188	:	ON PETITION
Filed: February 3, 2004	:	
Attorney Docket No. Solaicx 1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 14, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the final Office action mailed January 22, 2007, which set a shortened statutory period for reply of three (3) months. In no event will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final Office action. As no extension of time under 37 CFR 1.136 was filed prior to the expiration of the maximum extendable period for reply, the application became abandoned after midnight on April 22, 2007. A Notice of Abandonment was mailed on August 14, 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 continuing application; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/893,254.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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MAY 0 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael R. Schrimpf et al.	:	
Application No. 10/772,192	:	ON PETITION
Filed: February 4, 2004	:	
Attorney Docket No. 7271US01	:	

The above-identified application has been referred to the Office of Petitions for consideration of a communication filed October 22, 2007.

A review of the record indicates that the application was held abandoned for failure to timely respond to the Restriction Requirement mailed December 26, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed on July 19, 2007. In response, on August 3, 2007, a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) was filed. Thereafter, on October 22, 2007, the present communication was filed.

For reasons noted in the communication of October 22, 2007, applicant requests that the petition to revive under 37 CFR 1.137(b) filed August 3, 2007 be withdrawn and that the petition fee paid therefor be refunded.

Since the present request was filed before any consideration of the petition under 37 CFR 1.137(b) filed October 22, 2007, the request is **GRANTED**.

In view of the October 22, 2007 request, the petition under 37 CFR 1.137(b) is **DISMISSED**. The $1,500 petition fee will be refunded to applicant's deposit account.

Any questions concerning this matter may be directed to Terri Williams at (571) 272-2991.

Liana Walsh
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Schrimpf, Michael R.; Sippy, Kevin B.; Ji, Jianguo; Li, Tao; Frost, Jennifer M.; and Briggs, Clark A.

Application No.: 10/772,192 Group No.: 1617
Filed: February 4, 2004 Examiner: Carlic K. Huynh
For: AMINO-SUBSTITUTED TRICYCLIC DERIVATIVES AND METHODS OF USE

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

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

Dear Sir:

This application became abandoned on January 26, 2007. Applicants filed a petition to revive the application on August 3, 2007 along with a Request for Continued Examination.

Applicants respectfully request withdrawal of the above-mentioned request for revival of unintentionally abandoned application and refund of the fee $1,500.00 paid.

The Commissioner is hereby authorized to charge additional Filing Fees required under 37 CFR 1.16, as well as any patent application processing fees under 37 CFR 1.17 associated with this communication for which full payment has not been tendered to Deposit Account No. 01-0025.

23492
ABBOTT LABORATORIES
Telephone: (847) 935-9003
Facsimile: (847) 938-2623

Adjustment date: 05/06/2008 CKHLOK
08/06/2007 INTEFSW 00002628 010025 10772192
01 FC:1453 1500.00 CR

Respectfully submitted,
Michael R. Schrimpf, et al.

Sreenivasarao Vepachedu
Registration No. 46,395
Attorney for Applicants

Certificate of Mailing Under 37 C.F.R. § 1.8

I hereby certify that this correspondence is being electronically transmitted, facsimile transmitted or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Mail Stop Petition, P.O. Box 1450, Alexandria, VA 22313-1450 on October 22, 2007.

By: /Wanda E. Smith/

Name: Wanda E. Smith

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 04/22/08

2 Serial/Patent # 10/772,192

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition		10/22/07	$ 1,500.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1,500.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 0 1 -- 0 0 2 5

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Petition was withdrawn.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Williams TITLE: Paralegal Specialist

SIGNATURE: PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: DATE: 5/6/08

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

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

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BINGHAM MCHALE LLP
2700 MARKET TOWER
10 WEST MARKET STREET
INDIANAPOLIS, IN 46204-4900

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Amber McCrocklin, et al. :
Application No. 10/772,193 : ON PETITION
Filed: February 4, 2004 :
Attorney Docket No. 13881-44763 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed December 30, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 31, 2005.

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

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

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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SEP 0 2 2004

OFFICE OF PETITIONS

In re Application of Curtis Priem Application No. 10/772,195 Filed: February 3, 2004 For: SYSTEM AND METHOD OF DETECTING ROTATED DISPLAYS	DECISION GRANTING PETITION UNDER 37 CFR 1.47(b)

This is in response to the "Petition Under 37 CFR 1.47(b)," filed July 9, 2004 (Certificate of Mailing Date: July 6, 2004).

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Richard Domingo establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but has refused the request that he sign the declaration. In addition, petitioner has shown that NVIDIA Corporation (NVIDIA) has a proprietary interest in the above-identified application with the copy of the "Proprietary Information and Inventions Agreement" showing that the inventor had an obligation to assign any patent rights to NVIDIA. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703)306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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POLYONE CORPORATION
33587 WALKER ROAD
AVON LAKE, OH 44012

Mail Date: 04/21/2010

Applicant	: Sang H. Lee	: DECISION ON REQUEST FOR
Patent Number	: 7198840	: RECALCULATION of PATENT
Issue Date	: 04/03/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/772,213	: OF WYETH
Filed	: 02/04/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

William B. Patterson
MOSER, PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston TX 77056

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AUG 2 2 2006

OFFICE OF PETITIONS

In re Application of :
Richard L. Giroux et al. :
Application No. 10/772,217 :
Filing Date: February 2, 2004 :
Attorney Docket No.: WEAT/0344 :
Title: APPARATUS AND METHODS :
FOR DRILLING A WELLBORE USING :
CASING

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

This is a decision on the petition under 37 C.F.R § 1.78(a)(3) filed May 22, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of nonprovisional application number 10/331,964, filed December 30, 2002, which issued as U.S. Patent number 6,857,487 on February 22, 2005, as set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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 § 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.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 C.F.R. § 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 C.F.R. 1.121 and 37 C.F.R. 1.76(b)(5)) to correct the above matters are required.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. All other inquiries

---

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

concerning examination procedures or status of the application should be directed to the Technology Center.

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

Petitioner's further action(s).

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Paper No. None

William B. Patterson
MOSER, PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston TX 77056

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DEC 0 1 2006
OFFICE OF PETITIONS

In re Application of :
Richard L. Giroux et al. :
Application No. 10/772,217 : DECISION ON RENEWED PETITION
Filed: February 2, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket Number: :
WEAT/0344 :
Title: APPARATUS AND METHODS :
FOR DRILLING A WELLBORE USING :
CASING :

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

The original petition was submitted on June 1, 2006, and was dismissed via the mailing of a decision on August 22, 2006.

This renewed petition is **GRANTED**.

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

1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application,

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

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

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

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

This application is being forwarded to Technology Center Art Unit 3672 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.

With the present petition, Petitioner has submitted a duplicate petition fee. As this fee is not required, it will be refunded to Petitioner's Deposit Account, as authorized in the petition.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225. All other

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

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/772,217	02/02/2004	3672	2712	WEAT/0344	50	21	7

CONFIRMATION NO. 2193

CORRECTED FILING RECEIPT

OC000000021411408

William B. Patterson
MOSER, PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056

Date Mailed: 11/30/2006

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)

Richard L. Giroux, Cypress, TX;
Gregory G. Galloway, Conroe, TX;
Tuong Thanh Le, Katy, TX;
Raymond H. Jackson, Spring, TX;
Gregory R. Nazzal, Kingwood, TX;
James C. Swarr, The Woodlands, TX;
David J. Brunnert, Cypress, TX;
William M. Beasley, Waller, TX;
Brent J. Lirette, Houston, TX;
Albert C. Odell, Kingwood, TX;
Jim Terry, Houston, TX;
Dave McKay, Stonehaven, UNITED KINGDOM;
Samir Alkhatib, Aberdeen, UNITED KINGDOM;
Mike Wardley, Aberdeen, UNITED KINGDOM;

Assignment For Published Patent Application

Weatherford/Lamb, Inc.

Power of Attorney:

Scott Brown--29899
Keith Tackett--32008
Douglass Elliott--32982
William Patterson--34102
Raymond Moser Jr--34682
Barden Patterson--37906
Matthew Patterson--41244
Jeffrey Kubiak--50013
David Haugen--53000

Domestic Priority data as claimed by applicant

This application is a CIP of 10/257,662 03/05/2003 PAT 6,848,517
which is a 371 of PCT/GB01/01506 04/02/2001
This application 10/772,217
claims benefit of 60/444,088 01/31/2003
and claims benefit of 60/452,202 03/05/2003
and claims benefit of 60/452,186 03/05/2003
and claims benefit of 60/452,317 03/05/2003
and is a CIP of 10/331,964 12/30/2002 PAT 6,857,487

Foreign Applications

UNITED KINGDOM 0008988.8 04/13/2000

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/772,217

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus and methods for drilling a wellbore using casing

Preliminary Class

175

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign

patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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William B. Patterson
MOSER, PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston TX 77056

COPY MAILED

MAR 28 2007

OFFICE OF PETITIONS

Applicant: Giroux et al.
Appl. No.: 10/772,217
International Filing Date: March 12, 2004
Title: APPARATUS AND METHODS FOR DRILLING A WELLBORE USING CASING
Attorney Docket No.: WEAT/0344
Pub. No.: US 2007/0056774 A9
Pub. Date: March 5, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on March 22, 2007, for the above-identified application.

The instant request is that the application be republished because the patent application publication contains material errors, as the patent application publication includes the contents of another 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 17, 2008

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/772217 Patent No.: 7334650 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

/David J. Bagnell/ SPE Art Unit 3672

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Zaiser et al.	:	DECISION ON PETITION
Application No. 10/772,220	:	TO WITHDRAW
Filed: February 4, 2004	:	FROM RECORD
Attorney Docket No. 2173.2006-001	:	

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, 2006.

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

A review of the file record indicates that on February 17, 2006 the power of attorney to Hamilton, Brook, Smith & Reynolds, P.C. was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: R.D. Johnson & Associates, P.C.
20 Pickering Street
P.O. Box 920353
Needham MA 02492

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

GROOVER & HOLMES
BOX 802889
DALLAS TX 75380-2889

In re Application of	:	
CHEN, et al.	:	
Application No. 10/772,225	:	DECISION ON PETITION
Filed: February 4, 2004	:	TO WITHDRAW
Attorney Docket No. SC-03-02	:	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 18, 2006.

The request is **NOT APPROVED**.

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BAKER BOTTS**
2001 ROSS AVENUE, 6TH FLOOR
DALLAS, TX 75201

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/5/2010

TO SPE OF : ART UNIT 1638 Ibrahim Medina

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/772227 Patent No.: 7365240

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

Certificates of Correction Branch

703-756-1571 _____

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:

Figures 1-4 of the patent do not belong to the patent. The figures should be replaced with Figures 1-4 of the application (10/772,227).

_____ SPE

1638 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/5/2010

TO SPE OF : ART UNIT 1638 Ibrahim Medina

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/772227 Patent No.: 7365240

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

Certificates of Correction Branch
703-756-1571 _____

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:

Figures 1-4 of the patent do not belong to the patent. The figures should be replaced with Figures 1-4 of the application (10/772,227).

SPE

1638
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :
Vincent BELAICHE :
Application No. 10/772,237 :
Filed: February 6, 2004 :
For: **METHOD FOR BALANCING THE RATIO EB/I IN A SERVICE MULTIPLEXING CDMA SYSTEM AND TELECOMMUNICATION SYSTEMS USING SAME** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed March 16, 2004 and re-filed November 3, 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

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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OFFICE OF PETITIONS

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of
Kazuharu Teraoka et al.
Application No. 10/772,306
Filed: February 6, 2004
Attorney Docket No. P24882

ON PETITION

This is a decision on the petition filed August 22, 2006 to withdraw the holding of abandonment under 37 CFR 1.181.

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

This application became abandoned February 22, 2006 for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 21, 2005. Accordingly, a Notice of Abandonment was mailed April 11, 2006.

Petitioner claims that the Notice of Allowance mailed November 21, 2005 was never received in that the Notice was mailed to the wrong address. Petitioners provide proof that a Power of Attorney was incorrectly filed on November 15, 2004 in the instant application by an unrelated Attorney, and that the Power of Attorney was meant for application no. 10/722,306.

A review of the file confirms that the correspondence address was in fact changed by virture of a Power of Attorney having been filed intended for application no. 10/722,306 and not 10/772,306 and that the Notice of Allowance, Notice of Allowability and Notice of Abandonment were therefore sent to the wrong address and not received by the petitioner, as claimed.

The USPTO records have been corrected and in view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and this matter is being referred to Technology Center 2841 for a re-mailing of the Notice of Allowance and Notice of Allowability.

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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JOHN NIELSEN
RANDICK O'DEA & TOOLIATOS, LLP
5000 HOPYARD ROAD, SUITE 400
PLEASANTON, CA 94588

MAILED

MAY 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Ferdinand SCHERMEL	:	
Application No. 10/772,331	:	DECISION ON PETITION
Filed: February 6, 2004	:	TO WITHDRAW
Attorney Docket No. A0670.002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 15, 2009.

The request is **NOT APPROVED.**

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

The request cannot be approved because it is not clear whether the act noted above at item 2 has been performed.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MR. FERDINAND SCHERMEL
7741 CHURCHVILLE RD.
BRAMPTON, ONTARIO L6Y 0H3
CANADA

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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Abram Ellison
19925 Lauder
Detroit MI 48235

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OFFICE OF PETITIONS

In re Application of
Abram Ellison
Application No. 10/772,346
Filed: 02-06-2004
Title: Perpetual motion energy

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 2, 2007, to revive the above-identified application.

The petition is **dismissed**.

The Office finance records indicate that petitioner did not submit a petition fee with the present petition. For this reason, the petition under 37 CFR 1.137(a) will not be treated on its merits. The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unavoidable delay. In this instance, the fee required by law is $250.00.

Accordingly, the Office lacks the discretion to, and will not, address the merits of any petition seeking revival of an abandoned application in the absence of the filing of a new petition under 37 CFR 1.137(a) and paying the $250.00 petition fee required by statute.

As petitioner is acting *pro se*, the Office reminds petitioner that a showing of "unavoidable" delay based upon medical incapacitation must establish that petitioner's incapacitation was of such a nature and degree as to render him unable to conduct business (e.g., correspond with the Office) during the period when the reply was due. Petitioner must provide a statement from petitioner's treating physicians to support the showing of medical incapacitation. Specifically, the statement must identify the nature and degree of petitioner's incapacitation during the period from January 9, 2006, until the filing a grantable petition. Although petitioner stated that he submitted medical evidence with the petition, the Office did not receive these documents.

The Office cautions petitioner to remove or mark through any personal information in any document submitted to the USPTO that could 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, petitioner should consider deleting such personal information from the documents before submitting them to the USPTO. However, 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.

Therefore, petitioner must submit: (1) a new petition under 37 CFR 1.137(a); (2) a reply in the form of a Notice of Appeal (and appeal fee), RCE (and fee), or the filing of a continuing application under 37 CFR 1.53(b); (3) documentary evidence to support a showing of unavoidable delay; and (4) pay the petition fee required by statute ($250.00).

Petitioner may wish to file a petition under 37 CFR 1.137(b) due to unintentional delay rather than a petition under 37 CFR 1.137(a). A petition under 37 CFR 1.137(b) is significantly less burdensome to prepare and prosecute than a petition under 37 CFR 1.137(a). The Office is almost always satisfied as to whether "the entire delay...was unintentional" on the basis of statement(s) by the applicant. Therefore, if petitioner files a petition under 37 CFR 1.137(b), petitioner would not be required to submit a statement from his treating physician. Instead, petitioner would need to submit: (1) a petition under 37 CFR 1.137(b); (2) a reply in the form of a Notice of Appeal (and appeal fee), RCE (and fee), or the filing of a continuing application under 37 CFR 1.53(b); and (3) pay the petition fee required by statute ($750.00). The appropriate form accompanies this communication 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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,355	02/06/2004	Tatsuki Nogiwa	2004-0179A	5037

52349 7590 10/22/2009
WENDEROTH, LIND & PONACK L.L.P.
1030 15th Street, N.W.
Suite 400 East
Washington, DC 20005-1503

EXAMINER
GRAYBILL, DAVID E

ART UNIT	PAPER NUMBER
2894	

MAIL DATE	DELIVERY MODE
10/22/2009	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.

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

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

In re Application of:
Tatsuki Nogiwa et al.
Serial No.: 10/772,355
Filed: February 6, 2004
Title: SUBSTRATE HOLDER, METHOD FOR PRODUCING SUBSTRATE HOLDER, AND METHOD FOR PRODUCING MOLD

DECISION *SUA SPONTE* WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A communication from the USPTO was mailed on July 27, 2009, setting a one-month shortened but extendible statutory period for responding thereto. A reply was timely filed on September 28, 2009 along with a petition and fee for a one month extension of time. September 27, 2009 was a Sunday. It is not clear from the record the reason for holding the application abandoned but a Notice of Abandonment was mailed on September 28, 2009.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn in view of the fact that it is improper to hold an application abandoned before expiration of the maximum extendable statutory period for reply and in view of the fact that a reply has now been timely filed. The application is not abandoned in fact. Inconvenience to the applicant is regretted.

The examiner will review the reply filed September 28, 2009 and take appropriate action.

Any inquiry regarding this decision should be directed to Kimberly Nguyen, Supervisory Patent Examiner, at (571) 272-2402.

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

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ANTONELLI, TERRY, STOUT & KRAUS
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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MAR 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Ikuya Arai et al	:	
Application No. 10/772,376	:	ON PETITION
Filed: February 6, 2004	:	
Attorney Docket No. 520.32696CC8	:	

This is a decision on the petition, filed February 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 6, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2111 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:06142007

DATE : June 14, 2007

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 7081725

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:

The Certificate of Correction (CofC) is not acceptable because the correction changes the dependency of claim 11 to depend upon claim 20.

The dependent claim must depend upon any of the preceding claims, not the claims that follow. See MPEP 608.01(n).

The original claim 11 depends upon claim 9, which is OK. However, the CofC changes the dependency of claim 11 to depend upon claim 20, which is not acceptable.

SPE: 2837 Art Unit

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Joseph W. Berenato, III
Liniak, Berenato & White, LLC
6550 Rock Spring Drive, Suite 240
Bethesda MD 20817

COPY MAILED
AUG 30 2006
OFFICE OF PETITIONS

In re Application of	:	
Derek **KUMAR**	:	
Application No. 10/772,408	:	DECISION ON PETITION
Filed: February 6, 2004	:	TO WITHDRAW
Attorney Docket No. 6665.110A	:	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.

Diana Chase for
Amelia Au
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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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Ravi Upasani	: DECISION ON REQUEST FOR
Patent Number	: 7652006	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/772,445	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1692** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DEC 17 2004

In re Application of Sin Tian Jhang Serial No. 10/772,458 Filed: February 6, 2004 For: MILLING CUTTER HAVING CLOSE HOLDING EFFECT	: : : : : : :	WITHDRAWAL FROM ISSUE

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for prompt action.

E. Rollins-Cross, Director
Technology Center 3700

Charles E. Baxley, Esq.
90 John Street, 3rd Floor
New York, NY 10038

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

McCormick Paulding & Huber LLP
CityPlace II
185 Asylum Street
Hartford CT 06103-4102

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Ku et al.	:	
Application No. 10/772,461	:	DECISION ON
Filed: February 6, 2004	:	PETITION
Atty Docket No. MR3015-70	:	

This is in response to the COMMUNICATION filed March 7, 2007, which is properly treated as a Petition to Withdraw Holding of Abandonment.

The above-identified application became abandoned for failure to file a response to the Notice of Non-Compliant Amendment mailed June 27, 2006. The Notice set a one-month period for reply, with extensions of time obtainable under 37 CFR 1.136(a). A courtesy Notice of Abandonment was mailed on January 31, 2007.

On petition, the practitioner of record states that the Notice was erroneously mailed to Rosenberg, Klein & Lee in Ellicott City and not the attorney of record, McCormick, Paulding & Huber. He further states that a Substitute Declaration and Power of Attorney and Appointment of Domestic Representative was filed on January 4, 2006.

A review of the record confirms that a Substitute Declaration and Power of Attorney and Appointment of Domestic Representative were filed on January 4, 2006 (with a Request to Correct Inventorship). Nonetheless, the Notice was sent to the old law firm. Neither the request to correct inventorship nor the substitute declaration were acted on by the Office. Under the circumstances, withdrawal of the holding of abandonment is warranted.

In view thereof, the notice of abandonment mailed January 31, 2007 and the holding of abandonment are hereby **WITHDRAWN**.

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

No fee is required on petition under § 1.181.

Technology Center AU 3722 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the Notice of Non-compliant Amendment mailed June 27, 2006 and for restarting of the period for reply (and for consideration of the request to correct inventorship filed January 4, 2006 and resubmitted March 7, 2007).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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NOV 03 2005

OFFICE OF PETITIONS

In re Application of	:	
Mitsuru Kodama et al	:	
Application No. 10/772,465	:	ON PETITION
Filed: February 6, 2004	:	
Attorney Docket No. Q79777	:	

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 5, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3744 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,467	02/06/2004	Edwin Southern	2004-0200	1112

513 7590 01/15/2009
WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

EXAMINER
SKIBINSKY, ANNA

ART UNIT	PAPER NUMBER
1631	

MAIL DATE	DELIVERY MODE
01/15/2009	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Date Mailed: January 15, 2009

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

Applicant: Southern
Appl. No.: 10/772,467
Filing Date: February 6, 2004
Title: ANALYSING POLYNUCLEOTIDE SEQUENCES
Attorney Docket No.: 2004-0200
Pub. No.: US 2004/0259119 A1
Pub. Date: December 23, 2004

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on January 13, 2009, 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.** The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

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

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Adjustment date: 01/15/2009  KKING1
01/14/2009 INTEFSW  00002823 230975   10772467
01 FC:1504        300.00 CR
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OFFICE OF PETITIONS

In re Application of	:	
Linkert et al.	:	DECISION ON PETITION TO
Application No. 10/772,478	:	WITHDRAW HOLDING OF
Filed: 5 February, 2004	:	ABANDONMENT
Attorney Docket No. 1578.197	:	
(10879-US-PAT)	:	

This is a decision on the petition filed on 21 May, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 1 September, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 20 March, 2007.

Petitioners assert that the non-final Office action mailed on 1 September, 2006, was never received. Specifically, petitioners aver that the Office action was not mailed to the correct address.

A review of the Official file reveals that the Office action was mailed to Customer No. 44028, PIERS JENDRIE, 5305 ANKARA COURT, AUSTIN TX 78730. It is further noted on 22 February, 2005, and 15 May, 2006, petitioner filed a Change of Correspondence Address requesting the Office use the address associated with Customer No. 44028 as the correspondence address. On 5 June, 2006, however, a Change of Correspondence Address requesting the address associated with Customer No. 44208 be used as the correspondence address was filed.

It is therefore concluded that petitioners initially filed two Change of Correspondence Address requests which did not reference the correct Customer Number. However, a Change of Correspondence Address request referencing the correct Customer Number was filed on 5 June, 2006, prior to the mailing of the Office action mailed on 1 September, 2006. As the showing of record is that the

Customer Number associated with the correct correspondence address was provided prior to the mailing of the Office action mailed on 1 September, 2006, and the Office action was not mailed to the requested address, the failure of petitioners to receive the Office action was due to an Office error, not petitioners' error.

The petitioners have made a sufficient showing of nonreceipt of the Office action. As such, the showing of record is that there was no abandonment in fact. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

As the petition was necessitated by an Office error, no petition fee is due.

As petitioner has submitted a reply to the non-final Office action mailed on 1 September, 2006, with the present petition, the Office action will not be remailed. Rather, the response will be considered timely filed.

The address in the petition is different than the correspondence address. A copy of this decision will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application is referred to Technology Center Art Unit 2164 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

SCHEEF & STONE, LLP
5956 SHERRY LANE, SUITE 1400
DALLAS TX 75225

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090331

DATE : March 31, 2009

TO SPE OF : ART UNIT 2416

SUBJECT : Request for Certificate of Correction on Patent No.: 7,499,459

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:

/Chi H Pham/
Supervisory Patent Examiner, Art Unit 2416

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DEC 01 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Joseph G. Curatolo, Esq.
Curatolo Sidoti Co. LPA
24500 Center Ridge Road, Suite 280
Cleveland, OH 44145

In re application of
Thomas A. Jesko
Application No. 10/772,485
Filed: February 5, 2004
For: COVER ASSEMBLY FOR STRUCTURAL MEMBERS

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed July 9, 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 9, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

Regarding element 2(C) above, an Information Disclosure Statement was filed on February 5, 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.

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

SNM/rwg: 11/23/04

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HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

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MAR 15 2010

OFFICE OF PETITIONS

In re Patent No. 6,956,690	:	
Issue Date: October 18, 2005	:	
Application No. 10/772,491	:	NOTICE
Filed: February 4, 2004	:	
Attorney Docket No. 07783.0035.NPUS01	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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MAR 16 2005

TECHNOLOGY CENTER 3600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of
Alan Tien et al.
Application No. 10/772,530 :
Filed: February 04, 2004 :
For: METHOD AND SYSTEM FOR INCENTIVIZING THE PROMOTION OF A PAYMENT SERVICE :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 22, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

10/772,530

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), The statement included in the request, "Discontinuation of attorney client relationship," does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). The attorney may not discontinue the attorney client relationship on his own accord.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 02/23/05

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63 WINDING CREEK LANE
ROCHESTER NY 14625

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OFFICE OF PETITIONS

In re Application of Eugene Matzan Application No. 10/772,535 Filed: 02/06/2004 Title: System for detection of defects in railroad car wheels	: : : : : :	DECISION ON PETITION

This is decision on the petitions filed June 4, 2006, October 10, 2006, and October 23, 2006, all of which are being treated as a petition to withdraw the holding of abandonment in the above-identified application.[1]

On June 22, 2005, the Office mailed a nonfinal Office action, which set a three month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on September 23, 2005. The Office mailed a Notice of Abandonment on May 15, 2005.

In the present petition, petitioner asserted that the Office issued the Notice of Abandonment in error because petitioner submitted a timely response accompanied by a certificate of mailing dated September 6, 2005. With the present petition, petitioner submitted a copy of the previously mailed reply in the form of an amendment, bearing a certificate of mailing dated September 6, 2005. The certificate of mailing of September 6, 2005, would have rendered the amendment timely filed if received in the USPTO; however, the application file does not include the original reply or the certificate of mailing.

Pursuant to 37 CFR 1.8(b):

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed,

[1] The Office notes that the petitions filed on June 14, 2006, and October 10, 2006, indicated an incorrect application No. 10/772,536 instead of 10/772,535.

terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

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

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

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The present petition satisfies the requirements of 37 CFR 1.8(b). The petition is **granted**. Accordingly, the holding of abandonment for failure to file a timely reply to the nonfinal Office action of June 22, 2005, is withdrawn and the application is restored to pending status. The Office will accept the copy of the reply submitted with the petition in place of the reply mailed on September 6, 2005.

The $250.00 petition fee is unnecessary and will be refunded by treasury check in due course.

This application is being referred to Technology Center AU 3617 for appropriate action on the amendment submitted on June 14, 2006 (certificate of mailing dated September 6, 2005).

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Tsai, David	:	
Application No. 10/772,537	:	ON PETITION
Filed: February 5, 2004	:	
Attorney Docket No. 04-01-2174	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 13, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue 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) 272-32806.

Liana Walsh
Petitions Examiner
Office of Petitions

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STEPTOE & JOHNSON, LLP
2121 AVENUE OF THE STARS
SUITE 2800
LOS ANGELES CA 90067

MAILED

AUG 24 2009

OFFICE OF PETITIONS

In re Patent No. 7,481,707	:	
Issue Date: January 27, 2009	:	
Application No. 10/772,543	:	DECISION ON PETITION
Filed: February 5, 2004	:	
Attorney Docket No. 83336.1605	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed July 10, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **DISMISSED**.

Petitioner states that the original Letters Patent was never received.

The Office follows the guidelines set forth in MPEP § 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is a strong presumption that the Office action (Letters Patent) was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Letters Patent was not in fact received. In this regard, the showing required to establish the failure to receive the Letters Patent must consist of the following:

1. a statement from practitioner stating that the Letters Patent was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received; and
3. a copy of the docket record where the nonreceived Letters Patent would have been entered had it been received must be attached to and referenced in the practitioner's statement.

The petition is not accompanied by the evidence required to establish nonreceipt of the original Letters Patent. In this regard, petitioner has not provided item 2 above. Office records reflect that the Letters Patent was mailed to the address of record at the time; namely, STEPTOE & JOHNSON, LLP. The evidence submitted does not establish nonreceipt of the Letters Patent at that address.

In view of the above, the petition fails to provide the necessary evidence to establish nonreceipt of the Letters Patent. Accordingly, the petition for issuance of a duplicate Letters Patent under 37 CFR 1.181 cannot be granted at this time.

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

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

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

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

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

Chris Bottorff
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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STEPTOE & JOHNSON, LLP
2121 AVENUE OF THE STARS
SUITE 2800
LOS ANGELES CA 90067

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Patent No. 7,481,707	:	
Issue Date: January 27, 2009	:	
Application No. 10/772,543	:	DECISION ON PETITION
Filed: February 5, 2004	:	
Attorney Docket No. 83336.1605	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed September 14, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

Petitioner states that the original Letters Patent was never received.

The required showing to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication (in this case, the original Letters Patent) was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received. A copy of the docket record where the nonreceived Letters Patent would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See* MPEP § 711.03(c) and 1156 Official Gazette 53 (November 16, 1993).

The petition is accompanied by the evidence required to establish nonreceipt of the original Letters patent. Accordingly, Publishing Division is directed to issue a duplicate Letters Patent.

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

Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 756-1556.

A copy of this decision is being faxed to the Office of Data Management or issuance of a duplicate Letters Patent.

for Terri Johnson
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, RSQ, 9th Floor, Room D30-B (Fax No. 571-270-9753)

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COOK, ALEX, McFARRON,
MANZO, CUMMINGS & MEHLER LTD.
200 WEST ADAMS STREET, SUITE 2850
CHICAGO, IL 60606

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JAN 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Timothy Paddock	:	
Application No. 10/772,562	:	DECISION ON PETITION
Filed: February 5, 2004	:	
Attorney Docket No. 0978-0027	:	

This is a decision on the petition, filed April 7, 2006, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment and as a petition under 37 CFR 1.137(b) to revive the above-identified application.

The petition under 37 CFR 1.8(b) is GRANTED.

The petition under 37 CFR 1.137(b) is **DISMISSED** because (1) it was not accompanied by the fee required by 37 CFR 1.137(b)(2), and (2) the petition is unnecessary in view of the granting of the petition under 37 CFR 1.8(b) granting the petition to withdraw the holding of abandonment.

This application was held abandoned for failure to timely respond to the final Office action of February 17, 2005, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before May 17 2005. A Notice of Abandonment was mailed on February 8, 2006.

Petitioner states that a reply was submitted via facsimile transmission on four separate occasions, which consisted of "a selection of responses enabling him [the examiner] to choose the one that he felt was immediately allowable in order to progress the patent to grant." However, petitioner states that the examiner had indicated that none of these submissions were received. In support of the allegation of the submission of the four previous facsimile transmissions, petitioner has submitted a copy of an "Itemised Call Statement." While the itemized statement is barely legible, it appears that some type of communication was transmitted around April 18, 2005. Petitioner has submitted a copy of a previously mailed correspondence, which bears a certificate of mailing dated April 18, 2005, transmitting 11 pages, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, as the Examiner has indicated that the version of the previously transmitted reply submitted with the petition now places the application in condition for allowance, the holding of abandonment for failure to timely file a reply to the final Office action of February 15, 2005 is hereby withdrawn and the Notice of Abandonment mailed February 8, 2006 is vacated. This application is restored to pending status.

The copy of the reply received with the petition will be accepted in place of the previously submitted reply of April 18, 2005.

Petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. A courtesy copy of this decision is being mailed to petitioner; however, all future communications regarding this file will be directed solely to the above-noted representative's address until otherwise instructed. *See* 37 CFR 1.33(a).

This application is being referred to Technology Center AU 3618 for appropriate action in the normal course of business on the reply received with petition.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Timothy Paddock
49 Fishgaurd Rd.
Lianishen,
Cardiff, United Kingdom
CF14 5PQ5

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

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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OFFICE OF PETITIONS

In re Application of	:	
Mawst et al.	:	DECISION ON APPLICATION
Application No. 10/772,573	:	FOR
Filed: February 5, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 032026-0754	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(B)," filed April 30, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 0 to 12 days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is ZERO **(0)** days, but with 0 days of Office delay and 73 days of applicant delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 2, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On April 30, 2007, applicants timely[1] submitted the instant application for patent term adjustment. Applicants dispute the reduction of 12 days associated with the filing of a response after final Office action filed January 24, 2007. Applicants point out that the Office action mailed November 24, 2006 restarted the period for

[1] The Issue Fee payment was also received on April 30, 2007.

response and their response was filed within three months of the mailing date of the subsequently issued Office action.

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

Applicants are correct that any delay should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As their response was received within three months of the Letter Restarting Period for Response (the re-mailed Office action), there was no applicant delay within the meaning of §1.704(b).

However, applicants' contention that the patent term adjustment should be 12 days instead of 0 days is incorrect. As of the mailing of the notice of allowance, there was no Office delay. This decision removes 12 days of applicant delay, resulting in an undisputed period of reduction of 73 days for applicant delay at the time of the mailing of the notice of allowance. In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 0 days (0 days of Office delay reduced by 73 days of applicant delay).

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

PALM INTRANET

Day : Friday
Date: 7/6/2007
Time: 08:26:47

PTA Calculations for Application: 10/772573			
Application Filing Date:	02/05/2004	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	85
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	12		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
58	07/06/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	12		
51	02/02/2007	MAIL NOTICE OF ALLOWANCE			
50	02/01/2007	ISSUE REVISION COMPLETED			
49	02/01/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	02/01/2007	DOCUMENT VERIFICATION			
47	01/31/2007	NOTICE OF ALLOWABILITY			
46	01/29/2007	DATE FORWARDED TO EXAMINER			
45	01/24/2007	AMENDMENT AFTER FINAL REJECTION		12	42
44	11/24/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
43	11/13/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
42	10/12/2006	MAIL FINAL REJECTION (PTOL - 326)			
41	10/02/2006	FINAL REJECTION			
40	07/25/2006	DATE FORWARDED TO EXAMINER			
39	07/12/2006	RESPONSE AFTER NON-FINAL ACTION		64	37
38	07/12/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	02/09/2006	MAIL NON-FINAL REJECTION			
36	02/06/2006	NON-FINAL REJECTION			
35	12/29/2005	DATE FORWARDED TO EXAMINER			
34	12/19/2005	RESPONSE AFTER NON-FINAL ACTION		5	33
33	09/14/2005	MAIL NON-FINAL REJECTION			
32	08/26/2005	NON-FINAL REJECTION			
31	08/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
30	07/07/2005	DATE FORWARDED TO EXAMINER			
29	06/29/2005	RESPONSE AFTER NON-FINAL ACTION		4	28

28	03/25/2005	MAIL NON-FINAL REJECTION			
27	03/21/2005	NON-FINAL REJECTION			
26	01/24/2005	REFERENCE CAPTURE ON IDS			
25	01/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	12/15/2004	CASE DOCKETED TO EXAMINER IN GAU			
23	11/23/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	11/23/2004	CASE DOCKETED TO EXAMINER IN GAU			
21	08/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	08/03/2004	REFERENCE CAPTURE ON IDS			
19	08/03/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	09/20/2004	APPLICATION RETURN FROM OIPE			
17	09/21/2004	APPLICATION IS NOW COMPLETE			
16	09/20/2004	APPLICATION RETURN TO OIPE			
15	09/20/2004	APPLICATION RETURN FROM OIPE			
14	09/20/2004	APPLICATION RETURN TO OIPE			
13	09/20/2004	APPLICATION RETURN FROM OIPE			
12	09/20/2004	APPLICATION IS NOW COMPLETE			
11	09/20/2004	APPLICATION RETURN TO OIPE			
9	08/25/2004	APPLICATION DISPATCHED FROM OIPE			
8	08/26/2004	APPLICATION IS NOW COMPLETE			
7	08/03/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	08/03/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	05/04/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	03/16/2004	CLEARED BY OIPE CSR			
3	03/16/2004	CASE CLASSIFIED BY OIPE			
2	02/12/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/05/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 48204-5137

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SEP 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Ronald G. Thieman	:	
Application No. 10/772,574	:	ON PETITION
Filed: February 5, 2004	:	
Attorney Docket No. 70026260-0002-103	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 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 December 9, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 10, 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 December 9, 2004 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 3721.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Omata et al.	:	DECISION ON APPLICATION
Application No. 10/772,593	:	FOR
Filed: February 6, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 040302-0382	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed April 14, 2008. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from ninety-two (92) days to two hundred ninety-nine (299) days.

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 ninety-nine (299)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 15, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 92 days. On April 14, 2008, applicant timely submitted the instant application for patent term adjustment[1]. Applicant disputes the reduction of 115 days associated with the filing of a response to the restriction requirement mailed August 25, 2005. Applicant states that their response was filed on October 21, 2005. A copy was resubmitted

[1] PALM records indicate that the Issue Payment was also filed on April 15, 2008.

on March 20, 2006, with proof in the form of a date-stamped and itemized postcard of the originally filing on October 21, 2005.

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

Applicant's arguments have been considered and found persuasive. The evidence of record makes clear that the response to the restriction requirement mailed August 25, 2005 was filed on October 21, 2005. Further, this was within the three month period provided for in 37 CFR 1.704(b). There was no applicant delay. The period of reduction of 115 days is being removed.

Finally, as the response was received on October 21, 2005, as shown by the postcard, a period of adjustment of 92 days is properly entered pursuant to 37 CFR 1.702(a)(2) for the Office taking until January 15, 2008 to mail the notice of allowance in response.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 299 days.

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

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

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Sunday
Date: 7/20/2008

PALM INTRANET

Time: 23:47:58

PTA Calculations for Application: 10/772593			
Application Filing Date:	02/06/2004	PTO Delay (PTO):	207
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	115
Post-Issue Petitions:	0	Total PTA (days):	299
PTO Delay Adjustment:	207		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
58	07/11/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	115		
57	07/11/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	92		
50	01/15/2008	MAIL NOTICE OF ALLOWANCE	66		40
49	01/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	01/14/2008	ISSUE REVISION COMPLETED			
47	01/07/2008	DOCUMENT VERIFICATION			
46	01/07/2008	NOTICE OF ALLOWABILITY			
41	10/17/2007	DATE FORWARDED TO EXAMINER			
40	07/10/2007	RESPONSE AFTER NON-FINAL ACTION			
39	02/06/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	02/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	04/10/2007	MAIL NON-FINAL REJECTION			
36	04/05/2007	NON-FINAL REJECTION			
35	02/02/2007	DATE FORWARDED TO EXAMINER			
34	01/24/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
33	02/02/2007	DATE FORWARDED TO EXAMINER			
32	01/24/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
31	02/02/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
30	01/24/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
29	10/24/2006	MAIL FINAL REJECTION (PTOL - 326)			
28	10/23/2006	FINAL REJECTION			
27	08/24/2006	DATE FORWARDED TO EXAMINER			

26	08/18/2006	RESPONSE AFTER NON-FINAL ACTION			
25	05/24/2006	MAIL NON-FINAL REJECTION			
24	05/22/2006	NON-FINAL REJECTION			
22	07/22/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	10/03/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	03/28/2006	DATE FORWARDED TO EXAMINER			
19	03/20/2006	RESPONSE TO ELECTION / RESTRICTION FILED		115	15
18	03/20/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
16.7	10/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	10/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	08/25/2005	MAIL RESTRICTION REQUIREMENT	141		-1
14	08/23/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
13	07/22/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
12.7	07/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	07/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	05/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	05/28/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	05/04/2004	APPLICATION RETURN FROM OIPE			
7	05/04/2004	APPLICATION RETURN TO OIPE			
6	05/04/2004	APPLICATION DISPATCHED FROM OIPE			
5	05/04/2004	APPLICATION IS NOW COMPLETE			
4	03/17/2004	CLEARED BY OIPE CSR			
3	03/17/2004	CASE CLASSIFIED BY OIPE			
2	03/05/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/06/2004	INITIAL EXAM TEAM NN			

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100 PINE STREET
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HARRISBURG, PA 17108-1166

Mail Date: 04/21/2010

Applicant	: Ronald Richard Rayburn	: DECISION ON REQUEST FOR
Patent Number	: 7640066	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/772,620	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1666** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MADAN, MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON TX 77057-1130

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OFFICE OF PETITIONS

In re Application of :
Ray Vincent, et al. :
Application No. 10/772,628 : ON PETITION
Filed: February 5, 2004 :
Attorney Docket No. 284-23258-USD :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 14, 2006.

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

It is noted that a terminal disclaimer, including fee, is not required. Petitioner has supplied a reply in the form of the $1700 issue/publication fee and has paid the petition fee of $1,500; however, the petition an adequate statement of unintentional delay. See item (3) above.

Accordingly, 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)" as well as the omitted item(s) noted above. This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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MAY 30 2007

OFFICE OF PETITIONS

PAUL S MADAN
MADAN, MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057-1130

In re Application of
Ray Vincent, et al.
Application No. 10/772,628
Filed: February 5, 2004
Attorney Docket No. 284-23258-USD

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 30, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before June 22, 2006. A Notice of Abandonment was mailed on July 26, 2006. On August 14, 2006 a petition under 37 CFR 1.137(b) was filed; however, the petition was subsequently dismissed in a decision mailed January 9, 2007. In response, on January 30, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,400 issue fee and the $300 publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Alex Suk, et al.	:	
Application No. 10/772,631	:	ON PETITION
Filed: February 5, 2004	:	
Attorney Docket No. 9132-90883	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before January 16, 2007. A Notice of Abandonment was mailed on February 7, 2007.

The present petition includes a Request for Continued Examination (RCE) and the submission required by 37 CFR 1.114. Petitioner indicates that the RCE was previously filed on December 14, 2006. In support, petitioner submits a copy of a post card dated December 18, 2006, that acknowledges receipt of a Request of Continued Examination (RCE) Transmittal, Check, Certificate of Mailing and Postcard. It is noted that the post card receipt does not reference a submission as required under 37 CFR 1.114. Accordingly, it is concluded that, while the RCE was filed within the period for paying the issue fee, it was an improper filing under 37 CFR 1.114. Therefore, the application was properly held abandoned for a failure to pay the issue fee. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply under 37 CFR 1.137(b) must be the payment of the issue fee or any outstanding balance thereof. Accordingly, the issue fee payment of $700 is being charged to counsel's deposit account as authorized.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Petitioner is advised that the issue fee paid in the above-identified application cannot be refunded. However, if the above-identified application is again allowed, petitioner may request that the issue fee paid on February 20, 2007, be applied towards the issue fee required by the new Notice of Allowance.

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

The application file is being forwarded to Technology Center AU 2876 for further processing of the request for continued examination under 37 CFR 1.114 filed February 20, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

JAN 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Gaal et al.	:	
Application No. 10/772,670	:	DECISION ON PETITION
Filed: February 4, 2004	:	
Attorney Docket No. 030154	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 22, 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 August 23, 2008. A Notice of Abandonment was mailed December 10, 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.

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

This application is being referred to Technology Center AU 2112 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

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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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Peter Gaal	: DECISION ON REQUEST FOR
Patent Number	: 7600170	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/772,670	: 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 **893** 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 : 8/4/08

Paper No.: —

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/772675 Patent No: 7229557 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.

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

Comments: _____

J. Ward
SPE

1797
Art Unit

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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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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO, CA 94080

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OCT 17 2007

OFFICE OF PETITIONS

In re Application of
David Y. JACKSON et al.
Application No. 10/772,678
Filed: February 04, 2004
Attorney Docket No. P1778R1C2

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 07, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 08, 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 an amendment; (2) the petition fee $1,500.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 07, 2006 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020.00 extension of time fee submitted with the petition on October 27, 2006 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 1625 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Morrison & Foerster, LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

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AUG 19 2008

In re Application of	:	
William M. Colone, et al.	:	
Application No. 10/772,703	:	DECISION ON PETITION
Filed: April 22, 2008	:	TO WITHDRAW
Attorney Docket No. 1016750020P	:	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 22, 2008.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on June 25, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **C.R. Band, Inc.**
Bard Peripheral Vascular
1625 W. 3rd Street
P.O. Box 1740
Tempe, AZ 85280-1740

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Dougherty, Clements & Hofer
1901 Roxborough Road
Suite 300
Charlotte, NC 28211

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DEC 06 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Thomas Roy Richard et al
Application No. 10/772,705
Filed: February 5, 2004
For: GUTTER COVER HAVING A UNIQUE INTERLOCKING BRACKET

DECISION ON PETITION TO MAKE SPECIAL (PROSPECTIVE MANUFACTURE)

This is a decision on the petition under 37 C.F.R §1.102(d) filed March 29, 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 MPEP 708.02, item I: Prospective Manufacture.

The petition is **GRANTED**.

MPEP 708.02 states that a Petition to Make Special based on Prospective Manufacture 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) the possession by the prospective manufacturer of sufficiently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) or that sufficiently available capital and facilites will be made available upon grant of a patent, with the proviso that if the prospective manufacturer is an individual a corroborating statement from a responsible party is required; (B) that the prospective manufacturer will not begin or increase production unless certain that the patent will be granted; (C) that the prospective manufacturer obligates themselves to manufacture the invention in the U.S. 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 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 March 29, 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.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

kjd:12/2/04

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Frost Brown Todd LLC
2200 PNC Center
201 East Fifth Street
Cincinnati OH 45202

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JUL 14 2004

OFFICE OF PETITIONS

In re Application of Whitsett,et al. Application No. 10/772,716 Filed: February 5, 2004 Attorney Docket No. 10872.0517745 For: DIAGNOSIS, PROGNOSIS AND TREATMENT OF PULMONARY DISEASES	DECISION GRANTING PETITION

This is a decision on the petition filed June 9, 2004, requesting in effect, withdrawal of the Notice of Incomplete Nonprovisional Application, mailed April 9, 2004, and accordation of a February 5, 2004 filing date to the above-identified application.

The application was deposited on February 5, 2004. On April 9, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on February 5, 2004 because no drawing was present, as is required by 35 USC 113, despite the fact that several drawings were referenced in the specification.

In response to the Notice, petitioners timely filed the present petition arguing that drawings are not necessary for the understanding of the invention and that the application should be accorded a filing date of February 5, 2004 without drawings present.

It is noted that the above-identified application contains method claims. As stated in MPEP 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence.)

MPEP 601.01(f) also states that:

> A non provisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains method claims. Therefore, the above-identified application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).

MPEP 601.01(g) states that if an application is filed without all of the drawing figures referred to in the specification, a "Notice of Omitted Items" is mailed indicating that the application has been accorded a filing date.

In view of the above, the "Notice" mailed April 9, 2004 was mailed in error and is hereby withdrawn. The petition is **granted**. No petition fee has been or will be charged in connection with this matter.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **February 5, 2004**.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

Mail Date: 04/21/2010

Applicant	: Yonhua Tzeng	: DECISION ON REQUEST FOR
Patent Number	: 7622151	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/772,740	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **414** 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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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	:	
Phillip L. Lam	:	
Application No. 10/772,759	:	DECISION ON PETITION
Filed: February 4, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2007, to revive the above-identified application.

The 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 September 5, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 6, 2006. A Notice of Abandonment was mailed on March 28, 2007.

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 September 5, 2006 is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg.

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

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.

This application is being referred to Technology Center AU 3724 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 May 14, 2007.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Rajiv S. Shah
3458 Ellicott Center Drive
Suite 101
Ellicott City, MD 21043

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HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

Mail Date: 04/21/2010

Applicant	: Michael Hogendijk	: DECISION ON REQUEST FOR
Patent Number	: 7666216	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/772,764	: 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 **998** 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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JACKSON & CO., LLP
6114 LA SALLE AVENUE
#507
OAKLAND, CA 94611-2802

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OFFICE OF PETITIONS

In re Application of
DELUCA, Michael et al.
Application No. 10/772, 767
Filed: February 04, 2004
Attorney Docket No. **FN101-CIP-2**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2007.

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

A review of the file record indicates that the power of attorney to Jackson & Co., LLP has been revoked by the assignee of the patent application on November 17, 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **FotoNation, Inc.**
IP Dept.
800 Airport Blvd.
Suite 522
Burlingame, CA 94010

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Robert Buchanan
EDWARD & ANGELL LLP
P.O. Box 55874
Boston, MA 02205

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JUL 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Bjarne LARSON, et al.	:	
Application No. 10/772,774	:	DECISION ON PETITION
Filed: February 4, 2004	:	TO WITHDRAW
Attorney Docket No. 55461CON2(45487)	:	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 21, 2005.

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

A review of the file record indicates that the power of attorney to Robert Buchanan and attorneys associated with customer number 21874 have been revoked by the assigness of the patent application on October 12, 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 Monica Graves at 571-272-7253.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Clark & Elbing LLP
101 Federal Street
Boston, MA 02110

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Orum & Roth LLC
53 W. Jackson Boulevard
Chicago IL 60604-3606

In re Application of	:	
KUBLER, et al.	:	
Application No. 10/772,801	:	DECISION ON PETITION
Filed: February 05, 2004	:	TO WITHDRAW
Attorney Docket No. 13264	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Gemrich: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Catherine L. Gemrich has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

There is no outstanding Office action that requires a reply from the applicant.

The correspondence address remains unchanged.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: Joseph Kubler
5386 Deer Creek Court
Boulder, CO 80301

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KEISLING PIEPER & SCOTT PLC
SUITE 217
1 EAST CENTER STREET
FAYETTEVILLE AR 72701

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MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Lester V. Broersma	:	
Application No. 10/772,814	:	DECISION ON PETITION
Filed: 2 February, 2004	:	
Atty Docket No. 013943	:	

This is a decision on the petition filed on 19 September, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 6 January, 2006, for failure to timely submit a response to the non-final Office action mailed on 5 October, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply

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

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

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

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

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

in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 10 August, 2006.

Petitioner has filed a reply to the Office action mailed on 5 October, 2005, with the present petition.

The Terminal Disclaimer filed on 19 September, 2006, is not required since the application was not filed prior to 8 June, 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 $130.00 will be refunded to petitioner.

This application is being referred to Technology Center Art Unit 3679 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO CA 92130

3/7/08

In re Application of:
Hogendijk, Michael
Serial No.: 10/772,840
Filed: December 30, 1999
Docket: 31530-01050
Title: RIBBON-TYPE VASCULAR PROSTHESIS HAVING STRESS-RELIEVING ARTICULATION AND METHODS OF USE

Decision on Petition to Reissue the Outstanding Office Action and Reset a Period of Reply

This is a decision on the petition filed Mar. 5, 2008 requesting the holding of abandonment be withdrawn. This petition is being considered pursuant to 37 CFR § 1.181. No fee is required.

The petition is Granted.

The application was held abandoned for failure to timely and properly reply to the Office action mailed Oct. 18, 2007. The Office action set a three (3) month period for reply. No response was received and no extensions of time under 37 CFR § 1.36(a) were requested It is noted the notice of abandonment has not been mailed. The application is technically abandoned for failure to respond to the Office action.

Facts in the Record and Facts Presented by Petitioners

1) On Oct. 18, 2007, the examiner issued a final Office action to the address of record. There does not appear to be any abnormality in the mail service. No mail was returned by the U.S. Post Office.
2) On or about Feb. 22, 2008, the applicant's attorney learned from the PTO's Private Pair system that an outstanding Office action of Oct. 18, 2007 was due.
3) On Mar. 5, 2008, the applicants' attorney filed the present petition to request to re-mail the Office action of Oct. 18, 2007 and reset a period of reply was filed.

Discussion and Analysis

Relevant section of the MPEP § 711.03 (C) (1)(A) states:

> 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.

In support of this petition, the petitioner has supplied a statement attesting that a search of the file and docket recording system indicates that no office action has been received. The petitioner has also supplied a copy of the docket records of Due Date report for Jan. 2008, Action Due printout and Docket Record of the application.

The petitioner has provided sufficient evidence to show non-receipt of the Office action mailed on Oct. 18, 2007. The petitioner has stated the communication was not received, and attested to the fact that a search of the file and docket records indicates the Office communication was not received, Additionally, copies of the relevant docket records have been attached and referenced in the petition and attached affidavits.

Conclusion

Since the petitioner has met all the requirements set forth by M.P.E.P. § 711.03(c)(1)(A), the petition is hereby granted. The holding of abandonment is withdrawn. The Office action of Oct. 18, 2007 will be re-mailed. This application is being forwarded to the examiner in Art Unit 3773 for appropriate action. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner at (571)-272-4856.

PETITION GRANTED

Frederick R. Schmidt, Director
Technology Center 3700

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JJGJR.: 02-05

GLENN PATENT GROUP
3475 EDISON WAY/STE. L
MENLO PARK, CA 94025

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FEB 16 2005
OFFICE OF PETITIONS

In re Application of	:	
Cahill	:	
Application No. 10/772,843	:	DECISION ON PETITION
Filed: 4 February, 2004	:	
Attorney Docket No. AOL0095	:	

This is a decision on the papers considered as a petition under 37 C.F.R. §1.53, filed on 12 October and 8 November, 2004, and again on14 January, 2005, requesting that the above-identified application, without drawings, be accorded a filing date of 4 February, 2004.

The petition is **GRANTED**.

The application was deposited on 4 February, 2004.

On 9 August, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (the 9 August Notice) stating, *inter alia*, that no filing date had been assigned because the application was deposited without drawings,[1] and requiring drawings be filed if necessary.

The 9 August Notice informed Petitioner that the alternatives available were to: (a) petition contending that the application was deposited with drawings; (b) petition contending that the application did not require drawing for the understanding of the subject matter sought to be patented; or (c) submit the missing drawings and accept the date of that submission as the filing date of the application.

[1] The provisions of 35 U.S.C. §113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

In response, Petitioner filed the instant papers, first on 12 October, 2004 (over a Monday, 11 October, 2004, certificate of mailing), and then again via FAX on 8 November, 2004, and 14 January, 2005, and included therein copies of a receipt card (see: MPEP §503),[2] and of drawing sheet numbered consecutively "1/3" through "3/3" containing Figs. 1 - 3.

ANALYSIS

A review of the file reveals that the application was deposited on 4 February, 2004, and that the date-stamped ("020404") receipt card states in pertinent part:

* * *

2. Utility Patent Application Transmittal (1 page)
3. Fee Transmittal (1 page, in duplicate)
4. (19) Page of Specification, Claims and Abstract
5. (3) Sheets of Formal Drawings

* * *

---

[2] The commentary at MPEP §503 provides in pertinent part:

* * *

RETURN POSTCARD

If a receipt for 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. To ensure the receipt of return receipt postcards, users must either: (A) purchase already stamped postcards from the United States Postal Service (USPS) or affix postage stamps to their postcards; or (B) if a postage meter is used, ensure that the meter postmark does not show the date. Any return receipt postcard containing a dated meter postmark may not be delivered by the USPS to the address provided on the postcard.< 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 >a< 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 postcard 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.

Because Petitioner's receipt card adequately itemized the contents of the application on the receipt card, it is concluded that the application, including three (3) sheets of drawings were deposited with the Office on 4 February, 2004, and subsequently misplaced in the Office.

Accordingly, the application, as filed, is entitled to a filing date.

The "Notice of Incomplete Nonprovisional Application" mailed on 9 August, 2004, was sent in error and is hereby vacated to the extent that it stated that the application was incomplete.

The petition is **granted** and the petition fee waived (the petition fee will be credited to Deposit Account 17-1445).

This application is released to OIPE for further processing with a filing date of 4 February, 2004, for the entire application and in particular for the 3 sheets of formal drawings, Figs. 1 - 3 as described in the specification, using:

- **the 19 pages of specification (description, claims and abstract) deposited on 4 February, 2004; and**
- **the 3 sheets of formal drawings deposited on 12 October, 2004; and**

with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 4 February, 2004, and reflecting therein that 19 pages of specification (description, claims and abstract) and 3 sheets of formal drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 272-3214.

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

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DAVID A. CASIMIR
MEDLEN & CARROLL,LLP
SUITE 350
101 HOWARD STREET
SAN FRANCISCO CA 94105

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APR 18 2007

OFFICE OF PETITIONS

In re Application of	:	
John M. Barrie et al	:	
Application No. 10/772,848	:	DECISION GRANTING PETITION
Filed: February 5, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. IPARA-08769	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 22, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The 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 of April 6, 2006, is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510 extension of time submitted with the petition on December 22, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 2178.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO CA 92101

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MAR 1 4 2008

OFFICE OF PETITIONS

In re Application of
KELLY, Anthony G.
Application No. 10/772,874
Filed: February 05, 2004
Attorney Docket No. **BTOMK 1029891**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 10, 2007.

The request is **NOT APPROVED**.

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

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

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **AOIFE O'NEIL**
TOMKINS & CO.
5 DARTMOUGHT ROAD
DUBLIN 6
IRELAND

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HUSCH BLACKWELL SANDERS LLP
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS MO 63105-3441

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OFFICE OF PETITIONS

In re Application of

GIBSON, Edward J.
Application No. 10/772,878
Filed: February 05, 2004
Attorney Docket No. **72130-002**

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 26, 2008.

The request is **NOT APPROVED**.

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

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

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **J. EWARD GIVSON**
4738 SOUTH HOLLAND
SPRINGFIELD, MO 65810

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United States Patent and Trademark Office
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APPLIED MATERIALS/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Pravin K. Narwankar	: DECISION ON REQUEST FOR
Patent Number	: 7658973	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/772,893	: 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 **1131** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TECHNOLOGY CENTER 3600

JAMES J. DALEY
C/O MEDCOUNT SYSTEMS, L.L.C.
30 HILLSIDE ROAD
ELIZABETH, NJ 07208

In re application of Maurus Logan Application No. 10/772,909 Filed: February 05, 2004 For: METHOD AND APPARATUS FOR SECURING CABLES AND THE LIKE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on October 07, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration indicating Mr. Logan is at least 65 years of age.

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

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

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

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

KJD/slb: 10/26/05

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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 15 2008

In re Application of	:	
Steven W. Dow et al.	:	
Application No. 10/772,913	:	DECISION ON PETITION
Filed: February 5, 2004	:	TO WITHDRAW
Attorney Docket No. 86715.0002	:	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 November 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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Kenneth E. Jenkins on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

The correspondence address has been changed to the first signing inventor, since no assignee has properly intervened in this application. If an assignee would like to intervene in this application and receive future correspondence then the proper power of attorney documents and a statement under 37 CFR 3.73(b) must be submitted. The new address is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Steven W. Dow
10 Glenridge Drive
Littleton, CO 80123

cc: National Jewish Medical and Research Center
1400 Jackson Street
Denver, CO 80206

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/772,913	02/05/2004	Steven W. Dow	86715.0002

CONFIRMATION NO. 5237

POWER OF ATTORNEY NOTICE

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000033618739

Date Mailed: 12/15/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/11/2008.

- 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/772942

Paper No.: ____

DATE : 10/4/05

TO SPE OF : ART UNIT 3749

SUBJECT : Request for Certificate of Correction on Patent No.: 6915797 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.

Thank You For Your Assistance

Virginia Tolbert
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.

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

Comments:

Supervisory EHUD GARTENBERG PRIMARY EXAMINER

SPE

3749
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/772,961	02/05/2004	3617	493	33398	8	32	3

CONFIRMATION NO. 5307

CORRECTED FILING RECEIPT

OC000000013488373

38505
MICHAEL W. TAYLOR
P.O. BOX 3791
ORLANDO, FL 32802-3791

Date Mailed: 08/10/2004

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

Applicant(s)

A. Michael Varney, Winter Park, FL;
John D. Martino, Longwood, FL;
Kimball P. Hall, Wading River, NY;

Assignment For Published Patent Application

Applied Combustion Technology, Inc., Orlando, FL;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/446,138 02/10/2003

Foreign Applications

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

Projected Publication Date: 08/12/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Pump jet with an exhaust bypass and associated methods

Preliminary Class
440

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

GRANTED

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

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

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

NOT GRANTED

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

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AUG 30 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

MICHAEL W. TAYLOR
P.O. BOX 3791
ORLANDO, FL 32802-3791

In re application of	:	**DECISION ON PETITION**
Kimball P. Hall	:	**TO MAKE SPECIAL**
Application No. 10/772,961	:	**(APPLICANT'S AGE)**
Filed: February 5, 2004	:	

For: PUMP JET WITH AN EXHAUST BYPASS AND ASSOCIATED METHODS

This is a decision on the petition submitted on February 5, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Kimball P. Hall 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/dcg: 8/20/04

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ETHERTON LAW GROUP, LLC
5555 E. VAN BUREN STREET
SUITE 100
PHOENIX, AZ 85008

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Steven C. Shanks et al	:	
Application No. 10/772,973	:	ON PETITION
Filed: February 4, 2004	:	
Attorney Docket No. 206-024	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed May 7, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 8, 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
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Nove Nordisk Pharmaceuticals, Inc.
100 College Road West
Princeton, NJ 08540

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APR 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Kjell Malmlof, et al.	:	
Application No. 10/772,997	:	DECISION GRANTING
Filed: February 5, 2004	:	PETITION
Attorney Docket No. 5904.214-US	:	

This is a decision on the petition filed May 21, 2004, requesting that the above-identified application be accorded a filing date of February 5, 2004.

The petition is **GRANTED**.

The application was deposited on February 5, 2004. However, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (Notice) on May 6, 2004 stating that the application had not been accorded a filing date because the application was deposited without drawings.

In reply to the Notice, applicant filed the instant petition stating the drawings referenced in the application are incorporated by reference, but they also are not necessary for the understanding of the subject matter sought to be patented.

Since the petition states that drawings are incorporated by reference and are not necessary for an understanding of the invention, the application will be accorded the requested filing date without the drawing described in the specification.

This application file is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of February 5, 2004 without a drawing.**

Telephone inquiries concerning this matter may be directed to Marianne Jenkins at (703) 306-3475.

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

OIPE JC42
MAY 21 2004
PATENT & TRADEMARK OFFICE

$ DAC
IFW

Attorney Docket No.: 5904.214-US
USSN: 10/772,997
Filed: February 5, 2004

Attorney Docket No.: 5904.214-US PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Malmlof et al.

Application No.: 10/772,997 Group Art Unit: Not Assigned

Filed: February 5, 2004 Examiner: Not Assigned

For: USE OF A GROWTH HORMONE OR A GROWTH HORMONE SECRETAGOUGE FOR APPETITE-SUPPRESSION OR INDUCTION OF SATIETY

PETITION TO ACCORD A FILING DATE UNDER 37 C.F.R. § 1.53(e)

Commissioner for Patents
Mail Stop Petitions
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notice Of Incomplete Nonprovisional Application dated May 6, 2004, (copy attached), Applicants hereby petition the Office to accord the filing date of February 5, 2004 to this patent application pursuant to 37 C.F.R. § 1.53(e) and 37 C.F.R. § 1.181.

The US Patent and Trademark Office (hereinafter "the Office") issued a Notice of Incomplete Nonprovisional Application on May 6, 2004 (hereinafter "the Notice"). The Notice indicates that this patent application has not yet been accorded a filing date due to the failure to deposit the application with drawings.

Although this patent application refers to figures which were not included with the copy of the application filed on February 5, 2004, this application should still be accorded that filing date for at least two reasons.

05/24/2004 AWONDAF1 00000038 141447 10772997
01 FC:1460 130.00 DA

First, this application incorporates by reference U.S. Patent Application No. 10/140,512, which contains identical copies of the referenced figures and description thereof. Applicants note that the subject application is a continuation of the '512 application. This application is identical to the '512 application in the specification (modifications in the claims of this application are fully supported by the text of the '512 application). Under Office policy, information incorporated by reference is considered "as much a part of the application as filed as if the text was *repeated in the application*, and should be treated as part of the text of the application *as filed*." See, e.g., MANUAL OF PATENT EXAMINING PROCEDURE (hereinafter "MPEP") § 2163.07(b) (emphasis added). Accordingly, Applicants request that this application be accorded the filing date of February 5, 2004, and that the figures of the '512 application be considered in the examination of this application. If necessary, Applicants' representative can submit a formal affidavit regarding the incorporation of this material.

Second, in the event the Office deems the incorporation of this material ineffective for according this application the February 5, 2004 filing date, Applicants, *alternatively* request that this application be accorded that filing date due to the fact that the referenced figures, while beneficial in illustrating Applicants' invention, are not necessary to understanding the claims of this application and, accordingly, are not required under 35 U.S.C. § 113 (hereinafter "Section 113") (see also MPEP § 601.01(f) for discussion of related principles). Specifically, the claims of this application are directed to methods of suppressing appetite (1-7 and 14-16), preventing diseases or disorders (8-13), and a composition formulated for injection (17). None of the claims are directed to any subject matter that relies upon the content of the "missing" figures for support. Applicants note that "It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence)." See MPEP § 601.01(f). "The same practice has been followed in composition applications." *Id.* The claims of this application fall within these categories and do not require the drawings for support. Accordingly, even if the Office should not accord this application the February 5, 2004 filing date based upon the

incorporation of the parent '512 application, it should do so based on the nonnecessity of the figures under Section 113. Applicants strongly believe that the Office should accord this application the February 5, 2004 filing date due to the incorporation and *only* wish to rely on this alternative request *if absolutely necessary* to accord the application the February 5, 2004 filing date.

For the foregoing reasons, Applicants respectfully request that this application be accorded the filing date of February 5, 2004, and that examination of this application thereafter proceed on the merits. To the extent permissible, Applicants also request permission to submit copies of the figures incorporated by the reference to the parent '512 application in this application and that the Examiner considers such figures in the examination of this application.

Please charge the required fee (under 37 C.F.R. § 1.17(h)), estimated to be $130.00, to Novo Nordisk Pharmaceuticals, Inc., Deposit Account No. 14-1447. A duplicate of this sheet is enclosed. Upon grant of this Petition, Applicants respectfully request a refund of this fee, which may be made by deposit to this Deposit Account.

Respectfully submitted,

Date: May 18, 2004

Len S. Smith, Reg. No. 43,139
Novo Nordisk Pharmaceuticals, Inc.
100 College Road West
Princeton, NJ 08540
(609) 987-5800

Use the following customer number for all correspondence regarding this application

23650
PATENT TRADEMARK OFFICE

TITLE: USE OF A GROWTH HORMONE OR A GROWTH HORMONE SECRETAGOGUE FOR APPETITE-SUPPRESSION OR INDUCTION OF SATIETY

CROSS REFERENCE TO RELATED APPLICATIONS

This application is a continuation of U.S. application Serial No. 10/140,512 which is a continuation of PCT/DK00/00600 filed on October 27, 2000, and claims priority under 35 U.S.C. 119 of Danish application no. PA 1999 01585 filed on November 3, 1999, and U.S. provisional application no. 60/165,491 filed on November 15, 1999, the contents of which are fully incorporated herein by reference.

FIELD OF INVENTION

The present invention relates to use of growth hormone for the manufacture of a medicament for appetite-suppression or induction of satiety. The invention also relates to a method for suppressing appetite or inducing satiety.

BACKGROUND OF THE INVENTION

Growth hormone is a hormone, which stimulates growth of all tissues capable of growing. The growth hormones (GH) from man and from the common domestic animals are proteins of approximately 191 amino acids, synthesized and secreted from the anterior lope of the pituitary gland. Human growth hormone consists of 191 amino acids.

Growth hormone is released from the pituitary. Growth hormone is a key hormone involved in the regulation of not only somatic growth, but also in the regulation of metabolism of proteins, carbohydrates and lipids. The organ systems affected by growth hormone include the skeleton, connective tissue, muscles, and viscera such as liver, intestine, and kidneys. The major effect of growth hormone is to promote growth. Deficiency in growth hormone can result in a number of severe medical disorders, e.g., dwarfism. Furthermore, growth hormone has been proposed for increasing the rate of growth of domestic animals or for decreasing the proportion of fat in animals to be slaughtered for human consumption.

Growth hormone is known to have a number of effects on metabolic processes, e.g., stimulation of protein synthesis and free fatty acid mobilisation and to cause a switch in energy metabolism from carbohydrate to fatty acid metabolism. The main features of the lipolytic effect of growth hormone are rapid increase in circulating levels of free fatty acids (FFA), oxygen consumption and energy expenditure followed by decreases in fat deposits.

Suppression of food intake is important. Obesity is a well-known risk factor for the development of many very common diseases such as atherosclerosis, hypertension, Type II

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AUG 18 2004

Director's Office
Group 3700

Marek Alboezta
2345 Yale Street
2nd Floor
Palo Alto, CA 94306

In re application of Donald R. Miles	: : :	**DECISION ON PETITION** **TO MAKE SPECIAL** **UNDER 37 CFR. 1.102(c)**
Serial Number: 10/773006 Filed: February 04, 2004	: :	

For: **ADAPTIVE AUXILIARY CONDENSING DEVICE AND METHOD**

This is a decision on the petition filed on February 04, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 8/17/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Pet. Sec.

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

VP
PAPER NO. ___

JUL - 1 2004

In re Application of
Kenneth J. Schlager
Serial Number: 10/773,011
Filed: February 4, 2004
For: ELECTRONIC PROCESSING SYSTEM

PETITION UNDER
M.P.E.P.708.02 IV

This is in response to the petition filed February 4, 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

GODFREY & KAHN S.C.
780 NORTH WATER STREET
MILWAUKEE WI 53202

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AUG 29 2006

OFFICE OF PETITIONS

ROBERT P. SIMPSON, ESQ.
SIMPSON & SIMPSON, PLLC
5555 MAIN STREET
WILLIAMSVILLE, NY 14221-5406

In re Application of	:	
Gerd Ahnert	:	
Application No. 10/773,027	:	DECISION DISMISSING PETITION
Filed: February 5, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. LUKP:106US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 27, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/DE02/02830, filed August 1, 2002.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

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

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

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

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

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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ROBERT P. SIMPSON, ESQ.
SIMPSON & SIMPSON, PLLC
5555 MAIN STREET
WILLIAMSVILLE, NY 14221-5406

COPY MAILED

MAR 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Gerd Ahnert	:	
Application No. 10/773,027	:	DECISION ON PETITION
Filed: February 5, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. LUKP:106US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 30, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/DE02/02830, filed August 1, 2002, as set forth in the accompanying amendment.

The petition is **GRANTED.**

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and

365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 3726 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/773,027	02/05/2004	3726	900	LUKP:106US	17	1

CONFIRMATION NO. 6091
CORRECTED FILING RECEIPT
OC000000022798818
OC000000022798818

Robert P. Simpson, Esq.
Simpson & Simpson, PLLC
5555 Main Street
Williamsville, NY 14221-5406

Date Mailed: 03/08/2007

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)

Gerd Ahnert, Sasbach, GERMANY;

Assignment For Published Patent Application

LuK Lamellen und Kupplungsbau Beteiligungs KG, Buhl, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **24041**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/DE02/02830 08/01/2002

Foreign Applications

GERMANY 101 38 570.6 08/06/2001

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/773,027

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for assembling a clutch system

Preliminary Class

029

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

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other

agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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 : 4/28/05

TO SPE OF : ART UNIT 1252

SUBJECT : Request for Certificate of Correction on Patent No.: 6844128 B2

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
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.

Virginia Tolbert
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:

[signature]
SPE

1752
Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTOL-306 (REV. 7/03)

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Alexandria, VA 22313-1450
www.uspto.gov

AUG 3 2005

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

In re Application of :	:
Lee et al.	:
Serial No.: 10/773,032	: PETITION TO MAKE SPECIAL
Filed: February 5, 2004	:
Attorney Docket No.: EPTM-P03-001	:

This is in response to applicants' petition filed July 25, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on applicants who are small entities having applications relating to biotechnology.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, XII (A), (B), and (C). The $130.00 petition fee as required by 37 CFR 1.17(h) was charged to applicant's Deposit Account No. 18-1945, as authorized. Therefore, the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Ann Tsai
Suite 137, PmB 174
931 West 75th Street
Naperville, IL 60565

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AUG 17 2004

OFFICE OF PETITIONS

In re Application of	:
Jung-Hua Yiu	:
Application No. 10/773,039	: DECISION GRANTING PETITION
Filed: February 6, 2004	:
For: Memory Card Connector	:

This is a decision on the petition filed June 30, 2004, requesting that the above-identified application be accorded a filing date of February 6, 2004, with Figures 8A, 8B described in the specification as part of the original disclosure.

On February 6, 2004, applicant filed the above-identified application. On May 6, 2004, the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of February 6, 2004, and advising applicant that Figures 8A, 8B appeared to have been omitted.

In response, on June 30, 2004, applicant filed the present petition and a copy of applicant's postcard receipt acknowledging receipt of 9 sheets of drawings on February 6, 2004. Additionally, applicant submitted 1 sheet of drawings, including Figures 8A, 8B.

Upon review of the record, Figures 8A, 8B, deposited on February 6, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on February 6, 2004, included Figures 8A, 8B, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figures 8A, 8B, was complete on filing and will be granted a filing date of February 6, 2004.

Accordingly, the petition is granted.

The requirement for the submission of omitted drawings Figures 8A, 8B was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be refunded by treasury check.

The Office of Initial Patent Examination is directed to accord the above-identified application a filing date of February 6, 2004, using the 8 sheets of drawings submitted on February 6, 2004, and the 1 sheet of drawings (Figures 8A, 8B) submitted with the 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

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United States Patent and Trademark Office
P.O. Box 1450
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MARSH, FISCHMANN & BREYFOGLE LLP
3151 SOUTH VAUGHN WAY
SUITE 411
AURORA CO 80014

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SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Adams et al. :
Application No. 10/773,045 : ON PETITION
Filed: February 5, 2004 :
Attorney Docket No.: 41992-00680 :
Title: Stir-Friction Hot Working Control System

This is a decision on the petition filed May 28, 2004, requesting in effect, that a Notice of Omitted Item(s)in a Nonprovisional Application ("Notice") mailed May 6, 2004, be withdrawn.

The application was filed on February 5, 2004. However, on May 6, 2004, the Office of Initial Patent Examination (OIPE) mailed the Notice stating that the application had been accorded a filing date of February 5, 2004 and advising applicant that figure 5a described in the specification appeared to have been omitted.

In response, the present petition was filed. The petition contends that the application as filed included six (6) sheets of drawings with sheet 3 of 6 containing figure 5a.

A review of the drawings filed on February 5, 2004, confirms that six sheets of drawings were filed on February 5, 2004 including sheet 3 of 6. However, the figure on sheet 3 of 6 was unlabeled as a result of an error made by applicant or applicant's counsel. It is obvious from the petition that no drawings were actually missing on February 5, 2004 and that applicant is not seeking to submit any additional drawings.

The "Notice" mailed May 6, 2004, was correct in advising applicant that figure 5a <u>appeared</u> to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The petition is <u>dismissed</u>.

The petition fee will not be refunded, since the petition was not necessary to correct any PTO error.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 5, 2004 using the six sheets of drawings submitted on that date.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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Paper No.

Ann Tsai
931 West 75th Street,
Suite 137, PmB 174
Naperville, IL 60565

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AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Lin et al.	:	DECISION ON PETITION
Application No. 10/773,049	:	
Filed: February 6, 2004	:	
Title: MEDIA PLAYER	:	

This is a decision on the PETITION filed August 9, 2004. Petitioners request that the above-identified application be accorded a filing date of February 6, 2004, with Figure 6 considered part of the original application disclosure.

For the reasons set forth herein, the petition is **DISMISSED**.

Applicants are given **TWO (2) MONTHS** from the mail date of this decision to respond. This period is governed by § 1.181(f) and is not extendable under § 1.136.

Application papers in the above-identified application were deposited on February 6, 2004. However, on June 16, 2004, the Office mailed a NOTICE OF OMITTED ITEMS IN A NONPROVISIONAL APPLICATION, notifying applicants that the application papers had been accorded a filing date; however, Figure 6 described in the specification appeared to have been omitted from the application.

Petitioners timely responded with the instant petition (and petition fee). Applicants assert that figure 6 was among the drawing sheets present in the application on filing. In support thereof, petitioners included a copy of a return receipt postcard. However, no copy of the drawing figure accompanied the petition.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of the postcard receipt confirms that: 1) it was date stamped as received in the USPTO on February 6, 2004, and shows assignment of application No. 10/733,049 to the papers submitted therewith 2) it specifically identifies the items being filed, including "Drawings: 6 Sheets," and 3) it lacks any annotation of non-

receipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including six sheets of drawings, were filed on February 6, 2004.

The application file shows that 5 sheets of drawings were received in the Office on February 6, 2004. Petitioners have met their burden of showing that a 6th sheet was received in the Office, but misplaced. However, petitioners have not supplied a copy of the misplaced drawing sheet containing figure 6. In view thereof, the petition must be dismissed.

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

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

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Effective June 5, 2004, patent correspondence delivered by hand or delivery services, **other than the USPS**, to the Customer Window must be addressed as follows:

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309 (or effective September 28, 2004 at (571) 272-3219).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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DANIEL H. GOLUB
1701 MARKET STREET
PHILADELPHIA, PA 19103

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JAN 13 2006

OFFICE OF PETITIONS

In re Application of :
Treado et al. :
Application No. 10/773,077 :
Filed: February 5, 2004 :
Title of Invention: :
NEAR INFRARED CHEMICAL :
IMAGING MICROSCOPE :

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 5, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 3, 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 April 4, 2005. A Notice of Abandonment was mailed on August 22, 2005.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). A response to the January 3, 2005 Office action is filed with the instant petition. Accordingly, the petition is granted.

The Revocation of Prior Powers of Attorney and New Power of Attorney has been entered and made of record.

This application is being forwarded to Technology Center Art Unit 2877 for processing of the response, filed October 5, 2005, 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

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Jackson & Co., LLP
6114 La Salle Avenue
#507
Oakland, CA 94611-2802

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APR 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Yury Prilutsky et al.	:	
Application No. 10/773,092	:	DECISION ON PETITION
Filed: February 4, 2004	:	TO WITHDRAW
Attorney Docket No. FN-101B-CIP-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 October 17, 2007.

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

A review of the file record indicates that the power of attorney to Jackson & Co., LLP has been revoked by the assignee of the patent application on October 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 Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **FotoNation, Inc.**
IP Dept.
800 Airport Blvd.
Suite 522
Burlingame, CA 94010

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PATTERSON THUENTE SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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JUN 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Patrick H. Weber et al	:	
Application No. 10/773,094	:	DECISION ON PETITION
Filed: February 5, 2004	:	
Attorney Docket No. 1088.166US01	:	

This is a decision on the petition, filed January 17, 2007, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Non-Final Rejection of July 5, 2006, which set a (3) month shortened statutory period for reply. Accordingly, a reply was due on or before October 5, 2006.

Petitioner states that a timely reply was mailed via certificate of mailing on January 5, 2007, which included the following papers: amendment; claims; applicant arguments and a three (3) month extension of time. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated January 5, 2007, which would have rendered the reply timely if received.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Non-Final Rejection of July 5, 2006 is hereby withdrawn and the application restored to pending status.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquires concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3636 for further processing.

Irvin Dingle
Petition 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
10/773,096	02/05/2004	3621	0.00	4804/13	33	40	9

CONFIRMATION NO. 3293

CORRECTED FILING RECEIPT

OC000000013263039

29858
BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP
900 THIRD AVENUE
NEW YORK, NY 10022

Date Mailed: 07/16/2004

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

Applicant(s)

Todd R. Smith, Corona del Mar, CA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/445,013 02/05/2003

Foreign Applications

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

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

Non-Publication Request: No

Early Publication Request: No

Title

System and method for facilitating customs compliance in the importation of merchandise

Preliminary Class

705

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

GRANTED

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

NOT GRANTED

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

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

Mail Date: 04/21/2010

Applicant	: James L. Lambert	: DECISION ON REQUEST FOR
Patent Number	: 7593763	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/773,099	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/773,101	02/04/2004	3746	612	23438.00001	12	38	3

CONFIRMATION NO. 3964

UPDATED FILING RECEIPT

OC000000013672889

SQUIRE, SANDERS & DEMPSEY L.L.P.
Two Renaissance Square
Suite 2700
40 North Central Avenue
Phoenix, AZ 85004-4498

Date Mailed: 08/30/2004

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

Applicant(s)

Paul V. Cooper, Chesterland, OH;

Power of Attorney:

David E. Rogers–38287

Domestic Priority data as claimed by applicant

This application is a CON of 10/619,405 07/14/2003
and is a CON of 10/620,318 07/14/2003

Foreign Applications

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

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/773,101

Projected Publication Date: 01/20/2005

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

System for releasing gas into molten metal

Preliminary Class

417

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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MILLS & ONELLO LLP
ELEVEN BEACON STREET
SUITE 605
BOSTON MA 02108

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of
Daniel G. Howard et al.
Application No. 10/773,103
Filed: February 5, 2004
Attorney Docket No. ECD-0014CIP

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed September 9, 2004 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on February 5, 2004, naming Daniel G. Howard, Jeffrey A. Pagliarulo, John R. Crowley, Andrew R. Lee, John J. Hart, James A. Merkle, Richard B. Levine without a signed declaration. Accordingly, on May 7, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on September 9, 2004, an oath or declaration executed by joint inventors Howard, Pagliarulo, Crowley, Lee, Hart and Levine and a petition under 37 CFR 1.47(a) was filed. The petition argues that diligent efforts to locate joint inventor Merkle were used.

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

The petition bears proof that efforts to locate Mr. Merkle at the last known physical address, as well as telephone calls and emails were used to locate him but to no avail.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JAMES A. MERKLE
3128 WALTON BLVD., #193
ROCHESTER HILLS, MI 48309

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of
Daniel G. Howard et al.
Application No. 10/773,103
Filed: February 5, 2004
For: SYTEMS AND METHODS FOR MEDIA AUTHENTICATION

Dear Mr. Merkle:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

cc:
MILLS & ONELLO LLP
ELEVEN BEACON STREET
SUITE 605
BOSTON MA 02108

PRINTER RUSH

(PTO ASSISTANCE)

Application:	10773103	**Examiner:**	Trang Doan	**GAU:**	2431
From:	Maurita Rustia	**Location:**	IDC	**Date:**	12/11/2009

Tracking #: Week Date: 11/30/2009

DOC CODE	DOC DATE	MISCELLANEOUS
[ ] 1449		[ ] Continuing Data
[ ] IDS		[ ] Foreign Priority
[X] CLM	07/21/2009	[ ] Document Legibility
[X] IIFW/FWCLM	11/23/2009	[ ] Fees
[ ] SRFW		[ ] Other
[ ] DRW		
[ ] OATH		Attn:
[ ] 312		
[ ] SPEC		

[RUSH] Message:

Renumbered claim 6 (original claim 7) depends on original claim 6 which has been canceled per (clm set dated 07/21/2009).
Please resolve.
Thank you, mr

[XRUSH] Response:

Claim 7 has been amended to depend on claim 1 instead of claim 6. Thanks.1

Initials: /T.D.

Examiner: PUBS contacts - for DESIGNS: Don Fairchild, 703-756-1566; for ALL OTHER files: Bernadette Queen, 703-756-1565.
NOTE: This form will be included as part of the official USPTO record with the response document coded as XRUSH.

REV: May 09

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SUITE 1800
201 SOUTH MAIN STREET
P.O. BOX 45898
SALT LAKE CITY, UT 84111

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DEC 19 2006
OFFICE OF PETITIONS

In re Application of
Densen Cao
Application No. 10/773,123
Filed: February 5, 2004
Attorney Docket No. 5045.6 P

ON PETITION

This is a decision in response to the petition, filed June 21, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b). The $750 petition fee for a small entity is being charged to counsel's deposit account, in view of the small entity assertion contained in the petition.

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed October 28, 2005. A Notice of Abandonment was mailed on June 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2815 for consideration of the amendment filed June 21, 2006.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Raffi Gostanian, Jr.
Jackson Walker, L.L.P.
Suite 600
2435 North Central Expressway
Richardson TX 75080

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JUL 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Alpert et al.	:	
Application No. 10/773,130	:	DECISION GRANTING PETITION
Filed: February 5, 2004	:	
Attorney Docket No. 123130.00004	:	

This is a decision on the petition under 37 CFR 1.53, filed June 17, 2004, requesting that the above-identified application be accorded a filing date of February 5, 2004, with Figures 15C-15E described in the specification as part of the original disclosure.

On February 5, 2004, applicants filed the above-identified application. On May 12, 2004, the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of February 5, 2004, and advising applicants that Figures 15C-15E appeared to have been omitted.

In response, on June 17, 2004, applicants filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of 26 sheets of drawings on February 5, 2004. Additionally, applicants submitted 1 sheet of drawings, including Figures 15C-15E.

Upon review of the record, Figures 15C-15E, deposited on February 5, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on February 5, 2004, included Figures 15C-15E, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figures 15C-15E, was complete on filing and will be granted a filing date of February 5, 2004.

Best Available Copy

Accordingly, the petition is granted.

The Notice of Omitted Item(s) was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 50-1752.

The Office of Initial Patent Examination is directed to accorded the above-identified application a filing date of February 5, 2004, using the 25 sheets of drawings containing Figures 1-15B and 16-23 supplied on February 5, 2004, and the one (1) sheet of drawings containing Figures 15C-15E supplied on petition, and for indication in Office records that 26 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

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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

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OFFICE OF PETITIONS

In re Application of :
Nakajima et al. :
Application No. 10/773,142 : ON PETITION
Filed: February 9, 2004 :
Attorney Docket No. 26GT-004-DIV2 :
Title of Invention: Weather Strip :

This is a decision on the petition under 37 CFR §1.181 filed May 9, 2006 to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.

This application was held abandoned August 28, 2005 for failure to timely reply to the non-final Office Action mailed on May 27, 2005. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed December 9, 2005.

Petitioner contends a reply to the non-final Office Action was received in the Office on October 13, 2005. Petitioner acknowledges that the reply which included an amendment, replacement drawings, a check and terminal disclaimer all contained the incorrect application number (10/733,142). The amendment did contain the correct art unit, name of the examiner, attorney docket number, filing date and title of invention. In support of petitioner's contention that a response was timely submitted to the Office Action, petitioner has submitted a copy of a stamped post card receipt and a copy of the response.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing an incorrect application number in the correspondence. The Office elects, in this instance, to treat

applicant's transposition of numbers as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

The response submitted October 13, 2005 has not been located in the Office. The $130.00 fee submitted in conjunction with the terminal disclaimer has been located in application 10/733,142 and will be transferred. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

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

This application is being forwarded to the Art Unit 3634 for further processing of the amendment and replacement drawings submitted with the petition.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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OFFICE OF PETITIONS

ROBERT W PITTS
PO BOX 11483
WINSTON-SALEM NC 27116-1483

In re Application of
Fredrica V. Coates
Application No. 10/773,160
Filed: February 9, 2004
Attorney Docket No. 50014-056

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 19, 2008, 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 February 16, 2007. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been filed, the application became abandoned May 17, 2007. Accordingly, a Notice of Abandonment was mailed September 5, 2007.

Petitioner files the instant petition and request for continued examination under 37 CFR 1.137(b). [1]

---

[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)).

The request for continued examination (RCE) of this application under 37 CFR 1.114 is improper since prosecution in the application had not been closed. However, the amendment filed January 19, 2008 will serve as the required reply. Accordingly, the RCE fee in the amount of $405.00 will be credited back to the credit card used.

This application is being forwarded to Technology Center 3761 for appropriate action on the amendment filed January 19, 2008.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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June 25, 2007

Kia Silverbrook
SILVERBROOK RESEARCH PTY LTD.
393 Darling Street
Balmain NSW 2041
AUSTRALIA

Patent No.: 7182439 B2
Application No.: 10/773197
Inventor(s): **Kia Silverbrook**
Issued: **February 27, 2007**
Title: **THERMAL INK JET PRINTHEAD WITH HEATER ELEMENT SYMMETRICAL ABOUT NOZZLE AXIS**

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481)*. This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

C. A copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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SILVERBROOK RESEARCH PTY LTD
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BALMAIN 2041 AU AUSTRALIA

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OFFICE OF PETITIONS

In re Patent No. 7,182,439
Application No. 10/773,197
Filed: February 9, 2004
Issued: February 27, 2007
Attorney Docket No. MTB29US

ON PETITION

This is a decision on the petition filed October 29, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Petitioner submitted the $130.00 requisite surcharge and $100.00 Certificate of Correction fee on both June 17, 2007 and October 29, 2007, when only one payment is necessary. Accordingly, the duplicate $130.00 surcharge and $100.00 Certificate of Correction fee will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

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KRAMER & AMADO, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314

Mail Date: 04/21/2010

Applicant	: Jonathan Dean Segel	: DECISION ON REQUEST FOR
Patent Number	: 7590055	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/773,226	: OF WYETH
Filed	: 02/09/2004	:
		:

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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Stanzione & Kim, LLP
1st. fl.
1740 N Street, NW
Washington DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Hong-Jik Doo	:	
Application No. 10/773,242	:	ON PETITION
Deposited: February 9, 2004	:	
Attorney Docket No.:.956-1001	:	
Title of Invention: Personal	:	
Thermotherapy Instrument	:	

This is a decision on the Petition for Filing Date filed July 29, 2004, requesting that the above-identified application be accorded the filing date of February 9, 2004.

Application papers in the above-identified application were deposited on February 9, 2004. However, on July 26, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings.[1]

In response, 10 sheets of drawings, including figures 1-10 and the present petition were filed on July 29, 2004. The petition contends that the application as filed included 10 sheets of drawings and were described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of " 10 pages of Drawings (FIGS. 1-10)" on February 9, 2004.

Applicant's postcard receipt is prima facie[2] evidence that drawings were received on February 9, 2004, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is

---

[1]See 35 U.S.C. 111(a)(4)

[2]A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

concluded that 10 sheets of drawings, including figures 1-10, were received on February 9, 2004, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted. Accordingly, deposit account 50-2827 is being credited with the $130.00 petition fee.

Since the original drawings cannot be located in the Office, the copy of the drawings supplied on July 29, 2004, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of February 9, 2004**, using the 10 sheets of drawings supplied on July 29, 2004.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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SUITE 1600
1981 MCGILL UNIVERSITY AVENUE
MONTREAL, QUEBEC M3B 1R4
CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Bert Bobrovniczky	:	
Application No. 10/773,321	:	ON PETITION
Filed: February 9, 2004	:	
Attorney Docket No. 16841-1US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the "Notice to File Corrected Application Papers" (Notice) mailed May 7, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 8, 2004.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

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

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

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1300 I STREET, NW
WASHINGTON DC 20005

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AUG 1 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	DECISION DISMISSING
Application No. 10/773,332	:	PETITION
Filed: February 9, 2004	:	
Attorney Docket No. 09095.0009-01000	:	

This is a decision on the petition filed June 29, 2004, requesting that the above-identified application be accorded a filing date of February 9, 2004, with page 92 of the specification as part of the original disclosure.

On February 9, 2004, applicant filed the above-identified application. On June 3, 2004, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application was accorded a filing date of February 9, 2004; however, it appeared that page 92 of the specification was omitted.

In response, on June 29, 2004, applicant submitted the present petition, the petition fee, and a copy of page 92 of the specification.

Upon review of the record, page 92 of the specification has not been located in the official file. It is noted that the specification identified this application as a divisional application of prior application No. 09/888,840, filed June 25, 2001, and specifically incorporated by reference the disclosure of the prior application.

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

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The

> inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied).

Obviously, in view of the incorporation by reference of Application No. 09/888,840, page 92 of the specification is not new matter if it was a part of the disclosure of Application No. 09/888,840. If applicant desires that page 92 of the specification be added to the application, an amendment should be filed prior to the first action on the merits, which will be considered by the primary examiner.

Accordingly, the Notice mailed on June 3, 2004, was correct in stating that page 92 of the specification appeared to have been omitted. Therefore, the requirement for the omitted page of specification was proper and will not be withdrawn.

Accordingly, the petition is dismissed.

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

The Office of Initial Patent Examination is directed to process the application with a filing date of February 9, 2004, using the application papers filed on that date. Page 92 of the specification will not be entered at this time.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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APR 0 5 2007

OFFICE OF PETITIONS

In re Patent No. 7,129,247 :
Application No. 10/773,332 :
Filed: February 9, 2004 :
Issued: October 31, 2006 :
Attorney Docket No. 09095.0009-01000 :

ON PETITION

This is a decision on the request filed December 29, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

The $130.00 request fee and the $100.00 certificate of correction fee will be charged to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision may be directed to Petitions Examiner Liana Walsh 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.

Frances Hicks
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

KING & SPALDING
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-4003

In re Patent of Ohta et al.	:	DECISION
Patent No. 7,342,014	:	ON PETITIONS
Issue Date: March 11, 2008	:	UNDER 37 CFR 1.183
Application No. 10/773,344	:	AND
Filed: February 9, 2004	:	ON REQUEST FOR RECONSIDERATION
Attorney Docket No.	:	OF PATENT TERM ADJUSTMENT
13509.105007US1	:	

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 a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Petition under 37 C.F.R. 1.705(d) and Request for Reconsideration of Patent Term Adjustment, both filed on February 2, 2009.

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 37 CFR § 1.181(f).

BACKGROUND

On March 11, 2008, the above-identified application matured into U.S. Patent No. 7,342,014, with a revised patent term adjustment of 357 days. A request for reconsideration of the patent term

adjustment indicated in the patent was not filed within two months of the date the patent issued. Patentees now petition under 37 CFR 1.183 to (i) suspend or waive the requirement of 37 CFR 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. Patentees reference the decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on March 11, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until February 2, 2009. Patentees request the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by May 11, 2008, the date two months from the date this patent issued, March 11, 2008. Rather, on February 2, 2009, over four months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008,

patentees filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154 requires the Office provide an applicant with one opportunity to request reconsideration of any patent term adjustment determination made by the Director and authorizes the Director to establish the procedures for requesting such reconsideration. The procedures created by the Office[1] include pursuant to 37 CFR 1.705(d), a two-month period for a party to file a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered patentees' arguments, it is concluded waiver of the two-month requirement is not warranted.

---

[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

The primary basis for requesting waiver set forth by patentee is the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008). Specifically, patentees state that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

Patentees have not explained why they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, patentees' argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

The fact that the decision in Wyeth may have led the Office to grant patentees' relief if patentees had 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.

Patentees chose not to challenge their revised patent term adjustment within the two-month period. Patentees' 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.

Patentees could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that patentees 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 patentees 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, patentees' unexplained delay in filing the petition weighs against them.

Patentees simply fail 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. Patentees 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 has provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 U.S.C. 354 and 37 CFR 1.323 or 35 U.S.C. 255 and 37 CFR 1.324 are not a proper method 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 37 CFR §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 37 CFR §1.705(d). *See* 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

Patentees request correction of the patent term adjustment (PTA) indicated in the patent to seven hundred fifty-three (753) days.

On March 11, 2008, the above-identified application matured into U.S. Patent No. 7,342,014 with a revised patent term adjustment of 357 days. The instant request for reconsideration was filed more than ten months after the issuance of the patent, on February 2, 2009.

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, 37 CFR 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). Patentees submitted $130.00 towards the $400.00 Rule 183 fee. Pursuant to patentees' authorization, deposit account no. 15-0030 will be charged the $270.00 balance due. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

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TECHNOLOGY CENTER 2100

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

In re Application of: Kanai, et al.
Application No. 10/773,345
Filed: February 9, 2004
For: STORAGE CONTROL APPARATUS AND METHOD THEREOF

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

This is a decision on the petition filed September 14, 2004 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

MBS

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APR 28 2005

In re Application of
Kathy McCurry et al.
Serial No. 10/773,358
Filed: February 6, 2004
For: BOTTLE SYSTEM USEFUL FOR STORING AND MIXING MATERIALS

DECISION ON PETITION TO WITHDRAW AS ATTORNEY

By papers filed on July 12, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the new correspondence address for this application is:

Kathy McCurry
Fruit of the Earth, Inc.
2520 W. Irving Blvd., 4th Floor
Irving, TX 75060

Donna Magaha
Office of the Director
Technology Center 3700

Chris Cravey
Vinson and Elkins, LLP
1001 Fannin Sreet
Houston, TX 77002-6760

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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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APR 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Steiss et al.	:	
Application No.: 10/773385	:	DECISION ON
Filing or 371(c) Date: 02/05/2004	:	PETITION
Attorney Docket Number: 6364	:	

This is a decision in response to the "Petition Under 3] C.F.R. § 1.181(a) to Withdraw a Holding of Abandonment – no Fee Required," filed March 27, 2008.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due (Notice), mailed November 8, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned February 9, 2008.

Petition under 37 CFR 1.181

Applicant petitions for withdrawal of the holding of abandonment and in support of the petition states that the Notice was never received. Applicant provides that prior counsel submitted a "Request for Withdrawal as Attorney or Agent and Change of Correspondence Address" on October 12, 2007 (prior to the mailing of the Notice). Applicant subsequently filed a Revocation of Prior Power of Attorney, Appointment of New Power of Attorney, and Statement Under 37 CFR 3.73(b) on January 24, 2008, that Applicant states was recognized by this Office on February 24, 2008.

Office records

A erview of Office records confirm that Applicant filed a "Request for Withdrawal as Attorney or Agent and Change of Correspondence Address" on October 12, 2007, and a Revocation of Prior Power of Attorney, Appointment of New Power of Attorney, and Statement Under 37 CFR 3.73(b) on January 24, 2008.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied)

MPEP 711.03(c)

Analysis

A review of Office records reveals that the Office did not act on the Request for Withdrawal as Attorney or Agent and Change of Correspondence Address prior to the mailing of the Notice. 37 CFR 1.136(b) provides:

> A registered patent attorney or patent agent who has been given a power of attorney pursuant to § 1.32(b) may withdraw as attorney or agent of record upon application to and approval by the Director.

Because the Office had not acted upon the Request for Withdrawal as Attorney or Agent and Change of Correspondence Address, the correspondence address was not changed. Applicant therefore could not rely upon the correspondence address included with the Request for Withdrawal as Attorney or Agent unless and until this Office approved the Request for Withdrawal as Attorney or Agent.

Applicant subsequently filed a proper Revocation of Prior Power of Attorney, Appointment of New Power of Attorney, and Statement Under 37 CFR 3.73(b) on January 24, 2008, and in accordance with 37 CFR 1.136(a), this Office changed the correspondence address of record.

Office records reveal that the Notice mailed November 8, 2007, was mailed to the correspondence address of record. Thereafter, Applicant changed his correspondence. As such, there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail.

Accordingly, the petition to withdraw the holding of abandonment is dismissed.

Alternate venue

Applicant is 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 reply to the Notice and the petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay 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).

A copy of the Office communication is enclosed.

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

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

By FAX: (571) 273-8300

Attn: Office of Petitions

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

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

Derek L. Woods
Attorney
Office of Petitions

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925 EUCLID AVENUE
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OFFICE OF PETITIONS

In re Application of	:	
Steiss et al.	:	
Application No.: 10/773385	:	DECISION ON
Filing or 371(c) Date: 02/05/2004	:	PETITION
Attorney Docket Number: 6364	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 1, 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 February 9, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 8, 2007. Accordingly, the date of abandonment of this application is February 10, 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; (2) the petition fee; and (3) a proper statement of unintentional delay[1].

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

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

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

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[1] 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.

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CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Loucks, Scherer, and Reber	:	DECISION ON PETITION AND
Application No. 10/773,389	:	DECISION ACCORDING STATUS
Filed: 5 February, 2004	:	UNDER 37 CFR 1.47(a)
Atty Docket No. 29939/03004A	:	
	:	

This is a decision in response to the "Petition Under 37 C.F.R. 1.47(A) Accompanying Petition to Revive Under 37 C.F.R. §1.137(B)" filed on 10 November, 2005, which is treated as a petition under 37 CFR 1.137(b)[1] and 37 CFR 1.47(a).

The petitions are **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)).

The application became abandoned on 11 December, 2004, for failure to timely file a reply to the Notice to File Missing Parts of Nonprovisional Application mailed on 10 May, 2004, which required an executed oath or declaration and a surcharge for its late filing. The Notice set a two (2) month shortened period for reply. On 10 December, 2004, a five (5) month extension of time under 37 CFR 1.136(a) was obtained. The oath and declaration and surcharge for its late filing required by the Notice were not filed, however. Notice of Abandonment was mailed on 5 February, 2005.

Petition Under 37 CFR 1.137(b)

As the petition under 37 CFR 1.47(a) is grantable, the reply required by 37 CFR 1.137(b)(1) has now been provided, and the petition to revive is granted.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

Petition Under 37 CFR 1.47(a)

Petitioners have shown that the non-signing inventor cannot be found. Specifically, petitioners have provided a copy of the envelope showing that letter was sent to the non-signing inventor's last known address, but was returned as undeliverable. Further, petitioners have shown, via the declarations Muriel K. Gallaher and Meggan F. Duffy that despite diligent efforts, the non-signing inventor, Fred Reber, could not be located to sign the declaration naming him as a joint inventor along with Brandi Loucks and Thomas W. Scherer.

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

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

The application is being referred to the Office of Initial Patent Examination for further processing.

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 Jun-06

Fred Reber
6262 Newkirk Road
Shreve OH 44676

COPY MAILED
JUN 2 2 2006
OFFICE OF PETITIONS

In re Application of
Loucks et al.
Application No. 10/773,389
Filed: 5 February, 2004
For: LAUNDRY BASKET WITH HIP HUGGING FEATURE

Dear Mr. Reber:

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 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

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

AUG 24 2005

In re Application of	:	
Marie A. Daigle	:	
Serial No. 10/773,424	:	DECISION ON PETITION
Filed: February 9, 2004	:	TO MAKE SPECIAL
For: PHONOLOGY AND ARTICULATION	:	
TOOL	:	

Applicant's petition, filed March 3, 2005, seeks to have this application made special because of the applicant's health, MPEP 708.02(III). The petition is GRANTED.

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

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

Deborah A. Basile
Doherty, Wallace, Pillsbury & Murphy
1414 Main St., One Monarch Place, 19th Fl.
Springfield, MA 01144-1002

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

MILLEN WHITE ZELANO & BRANIGAN, P.C.
ARLINGTON COURTHOUSE PLAZA 1
SUITE 1400
2200 CLARENDON BOULEVARD
ARLINGTON, VA 22201

COPY MAILED

JUL 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Siaw Teck Sang	:	
Application No. 10/773,451	:	DECISION ON PETITION
Filed:	:	
Attorney Docket No. ATOCM-0347	:	

This is a decision on the petition, filed March 12, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice under 37 CFR 1.251 mailed February 14, 2005.

Petitioner asserts that the Notice dated February 14, 2005 was not received.

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

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

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

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements.

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 Patent Examination Unit for re-mailing the Notice under 37 CFR 1.251 of February 14, 2005. The period for reply will run from the mailing date of the Notice.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
Arlington Courthouse Plaza 1
Suite 1400
2200 Clarendon Boulevard
Arlington VA 22201

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of :
Sang et al. : DECISION ON PETITION
Application No. 10/773,451 :
Deposited: February 9, 2004 :
Title: Metallized Multilayer Film :

This is a decision on the "Petition under 37 CFR 1.57(a)" filed October 22, 2007, requesting that the above-identified application be accorded the filing date of February 9, 2004. This petition is being treated pursuant to 37 CFR 1.53(e)(2)[1].

The petition is **GRANTED**.

On August 20,2007, the Office of Patent Application Processing mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had **not** been accorded a filing date because the application was deposited without a complete specification including at least one claim pursuant to 35 U.S.C. 112.

In response, the present petition was filed on October 22, 2007. The petition contends that the application as filed contained a complete specification including at least one claim pursuit to 35 U.S.C. 112. In support, the petition is accompanied by a copy of applicants' postcard receipt which acknowledges receipt in the office of "New Original Application Including 12 pgs of Spec., 2 pgs, Claims, 1 pgs abstract". Petitioner has also provided a copy of the claims, specification and abstract.

[1] Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f). In the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

Applicant's postcard receipt is prima facie[1] evidence that a complete specification was received on February 9, 2004, but a complete specification with at least one claim is not present in the file. Therefore, it is concluded that pages of application papers including a complete specification were received on February 9, 2004, as shown in counsel's file.

The $400.00 petition fee will be refunded.

Since the original pages of specification including at least one claim have not been located, the papers submitted on October 22, 2007 will be used for processing and examination purposes.

The application will be returned to the Office of Patent Application Processing for further processing with a **filing date of February 9, 2004**, using the papers submitted on that day and the copy of the specification provided on October 22, 2007.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Charles Pearson
Director
Office of Petitions

[1]A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060613

DATE : June 13, 2006

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction on Patent No.: 6.976,958

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:

Stephen K. Cronin
Primary Examiner
SPE 3747

SPE: Stephen K. Cronin **Art Unit** 3747

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 08-06

Paper No: __

ROBERTA D. GERMAN
1691 ROOSEVELT AVE.
ALTADENA CA 91001

COPY MAILED
AUG 17 2006
OFFICE OF PETITIONS

In re Application of :
Sneed :
Application No.: 10/773,511 :
Filing Date: 5 February, 2004 :
Attorney Docket No. ROG-00701 :

DECISION

This is a decision on the petition filed on 20 April, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

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 apparently was not Counsel of record at the time the application went abandoned and thus cannot make the statement of unintentional delay. Petitioner should have Applicant(s) or Assignee(s) also execute a statement of unintentional delay conforming with the regulatory language.

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to non-final Office action mailed on 11 May, 2005, with reply due absent extension of time on or before 11 August, 2005;
- the application went abandoned by operation of law after midnight 11 August, 2005;
- the Office mailed the Notice of Abandonment 5 January, 2006;
- on 20 April, 2006, Petitioner filed the instant petition (with fee), a reply in the form of an amendment (with amended drawings), and made the statement of unintentional delay–however, Petitioner was not of record at the time the application went abandoned and should submit the statement of unintentional delay by the applicant(s) (or assignee(s) if the application had been assigned at that time) in conformance with the regulatory requirement.

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

---

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for

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§ 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 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
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.

It appears as of this writing that Petitioner has yet to satisfy the "statement/showing" requirement under the regulation, and will require a statement from the applicant(s) (or assignee(s) with certificate under 37 C.F.R. §3.73(b)) in support of the petition .

CONCLUSION

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

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[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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

Further correspondence with respect to this matter should be addressed as follows:[8]

By mail: Commissioner for Patents[9]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[8] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[9] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 07-07

Paper No: __

COPY MAILED

AUG 0 6 2007

OFFICE OF PETITIONS

ROBERTA D. GERMAN
1691 ROOSEVELT AVE.
ALTADENA CA 91001

In re Application of	:	
Sneed	:	DECISION
Application No.: 10/773,511	:	
Filing Date: 5 February, 2004	:	
Attorney Docket No. ROG-00701	:	

This is a decision on the petition filed on 15 September, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to non-final Office action mailed on 11 May, 2005, with reply due absent extension of time on or before 11 August, 2005;

- the application went abandoned by operation of law after midnight 11 August, 2005;
- the Office mailed the Notice of Abandonment 5 January, 2006;
- on 20 April, 2006, Petitioner filed the original petition (with fee), a reply in the form of an amendment (with amended drawings), and made the statement of unintentional delay–however, Petitioner was not of record at the time the application went abandoned and should submit the statement of unintentional delay by the applicant(s) (or assignee(s) if the application had been assigned at that time) in conformance with the regulatory requirement, and so the petition was dismissed on 17 August, 2006;
- the instant petition seeks to overcome, *inter alia*, this deficiency with statement of unintentional delay by Applicant.

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

---

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[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

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(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.

[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.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears as of this writing that Petitioner now has satisfied "statement/showing" requirement under the regulation.

CONCLUSION

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

The instant application is released to Technology Center 3600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

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Edward W. Bulchis
Dorsey & Whitney, L.L.P.
1420 Fifth Avenue, Suite 3400
Seattle, WA 98101

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FEB 23 2007

Technology Center 2100

In re Application of: Joseph M. Jeddeloh
Application No. 10/773520
Attorney Docket No. 33583/US
Filed: February 5, 2004
For: Arbitration System Having a Packet Memory and Method for Memory Responses in a Hub-Based Memory System

DECISION ON PETITION

This is a decision on the petition filed on January 24, 2007, requesting that the shortened statutory period for reply set forth in the Office communication (Final Rejection) mailed on August 21, 2006 be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The petition is **GRANTED**.

Applicable Prosecution History

Mar 29, 2006	First action on the merits mailed to address above
Jun 12, 2006	Amendment filed (Address on correspondence same as above)
Aug 21,2006	Final rejection mailed to address above
Jan 5, 2007	Applicant downloaded action from PAIR
Jan 24, 2007	Instant Petition filed (Address on correspondence same as above) Certificate of Mailing sets date of Petition as Jan 19, 2007

RELIEF REQUESTED

The instant petition requests that the shortened statutory period for reply set forth in the Office communication (Final Rejection) mailed on August 21, 2006 be reset to run from Jan 5, 2007, the date on which the Office communication was actually received at the correspondence address of record.

OPINION

Petitioner asserts that the Office communication (Final Rejection) mailed on August 21, 2006 was not received by applicants, and states the following:
1. A substantial portion of the response period for response has elapsed on the date of receipt of action
2. Mr. Bulchis discovered on Jan. 5, 2007 that the office action (Final Rejection mailed Aug. 21, 2006) was entered in this application via the PAIR system
3. Upon discovery of the above office action, a search of the file jacket and the docket records was performed, and no entry for the office action was found.
4. Petitioner has attached a copy of pertinent mail log of incoming mail at the law firm, and a copy of the docket record for the instant application.

ANALYSIS

In the absence of any apparent irregularity associated with the mailing of a communication, the Office presumes that the communication was properly mailed to practitioner at the address of record. This presumption, however, may be overcome by showing that office action (Final Rejection mailed Aug. 21, 2006) was not in fact received at the address of record.

According to MPEP §711.03(c), the showing required to establish nonreceipt of an Office action includes the following:

a) a statement from the practitioner that the Office action was not received,
b) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates the Office communication was not received,
c) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed, and
d) a reference to the docket record in the practitioner's statement.

The petition filed on January 24, 2007, is in compliance with the above-stated requirements.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record on 05 January 2007. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt.

The Petition is **GRANTED**.

Accordingly, the shortened statutory period that was originally set forth in the Office communication originally mailed on 21 August 2006 is hereby reset to run FROM THE RECEIPT DATE OF 05 January 2007.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-4210.

Mano Padmanabhan
Quality Assurance Specialist,
Technology Center 2100, Work Group 2180

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

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OFFICE OF PETITIONS

In re Application of
Dolores Kaiser
Application No. 10/773,525
Filed: February 5, 2004
Attorney Docket No. 2152.008

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed May 7, 2004, requiring replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. A Notice of Abandonment was mailed February 7, 2005. In response, on May 5, 2005, the present petition was filed, along with replacement drawings.

The application is being referred to the Office of Initial Patent Examination (OIPE) for review of the drawings provided May 5, 2005.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

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

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600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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OFFICE OF PETITIONS

In re Application of :

WACHTER, Andy :
Application No. 10/773,545 :
Filed: February 6, 2004 :
Attorney Docket No. **WACHTER 3.0-001** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 27, 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 Arnold H. Krumholz 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 Andy Wachter at the address indicated below.

There is an outstanding Office action mailed July 23, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ANDY WACHTER**
10 STAR LAKE ROAD
BLOOMINGDALE, NY 07403

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FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE, WI 53202-5308

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OFFICE OF PETITIONS

In re Application of	:
Kristine E. Lichtscheidl et al	:
Application No. 10/773,567	: DECISION GRANTING PETITION
Filed: February 6, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 048675-0111	:

This is a decision on the petition, filed June 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2833 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
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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CUMMINGS & MEHLER, LTD.
200 WEST ADAMS STREET
SUITE 2850
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Masahiro Takahashi :
Application No. 10/773,587 : ON PETITION
Filed: February 6, 2004 :
Attorney Docket No. 0553-0397

This is a decision on the petition, filed February 10, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 8, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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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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FRANCIS LAW GROUP
1942 EMBARCADERO
OAKLAND, CA 94606

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OFFICE OF PETITIONS

In re Application of
Alexander K. Mills
Application No. 10/773,596
Filed: February 6, 2004
Attorney Docket No. WT-02-004DIV2

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 9, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and § 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed specification.

The petition is **GRANTED.**

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on February 6, 2004 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this decision on petition may be directed to Retta Williams at (571) 272-3229.

This application is being forwarded to Technology Center Art Unit 3736 for appropriate action on the amendment submitted on December 27, 2004, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

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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EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Kuei-Chi Kuo :
Application No.10/773,597 : ON PETITION
Filed: February 6, 2004 :
Attorney Docket Number: 021653-001200US :
Title of Invention: Method and Structure for :
Electrostatic Discharge Protection of :
Photomasks

This is a decision on the petition filed June 30, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed March 24, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on June 25, 2006. A Notice of Abandonment was mailed on July 26, 2006.

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

The Office is in receipt of $750.00 towards the petition to revive fee. However, the current fee for other than small entity is $1500.00. Accordingly, pursuant to petitioner's request deposit account 20-1430 will be charged the additional $750.00.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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In re Application of	:	
Ki Il Kim	:	
Application No. 10/773,606	:	DECISION ON PETITION
Filed: February 6, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 17226-3	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 11, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from Inventor Ki Il Kim stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2618 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:080805

DATE : August 8, 2005

TO SPE OF : ART UNIT

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

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:
IDS documents were originally considered
PB 8/8/05

SPE: Paula Bradley PAB **Art Unit** 2833

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OFFICE OF PETITIONS

In re Application of
Paul Hickman
Application No. 10/773,617
Filed: February 6, 2004
Attorney Docket No. 59174-8001.US05
Title of Invention: METHOD AND APPARATUS FOR REMOTE INTERACTIVE EXERCISE AND HEALTH EQUIPMENT

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b) filed January 3, 2006 to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a non-final Office Action which was mailed on January 24, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on April 25, 2005. A Notice of Abandonment was mailed on August 8, 2005.

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

This application is being forwarded to Technology Center 3700 for further processing of the amendment submitted with the instant petition.

The address provided on the petition differs from the correspondence 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 matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Paul Hickman
P.O. Box 1823
Los Altos, CA 94023

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OFFICE OF PETITIONS

In re Application of	:	
Paul L. Hickman	:	
Application No. 10/773,617	:	ON PETITION
Filed: February 6, 2004	:	
Attorney Docket No.: 59174-8001.US05	:	

This is a decision on the petition, filed June 12, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 30, 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 3764 for further processing of the request for continued examination under 37 CFR 1.114 purportedly filed on June 10 2006 under 37 CFR 1.10.

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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Date : June 12, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Paul L. Hickman
Application No. : 10/773,617
Filed : February 6, 2004

The above-identified application has been assigned Patent No. 7,063,645 and an issue date of June 20, 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 June 20, 2006:

> "All reference to Patent No. 7,063,645 to PAUL L. HICKMAN of CALIFORNIA for EXERCISE AND HEALTH EQUIPMENT appearing in the Official Gazette of June 20, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

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NOV 03 2009

OFFICE OF PETITIONS

In re Application of :
Paul L. Hickman :
Application No. 10/773,617 :
Filed: February 6, 2004 :
Attorney Docket No. 13915.74.1.4 :

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 April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/26/2010

Applicant	: Paul L. Hickman	: DECISION ON REQUEST FOR
Patent Number	: 7625315	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/773,617	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of
Thomas W. Dubensky et al.
Application No. 10/773,618
Filed: February 6, 2004
Attorney Docket No. 282172002800

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed November 9, 2004 to correct the full names of the third and fifth named inventors.

The petition is **GRANTED**.

The petition requests that the third inventor's name be corrected from Keith Bahjat to "Keith S. Bahjat" and that the fifth inventor's name be corrected from David Cook to "David N. Cook".

A review of the official file reveals that the fifth named inventor signed the declaration as David N. Cook although the typewritten name is listed without the middle initial. Generally, in an application where the name is typewritten with a middle name or initial, but the signature is without such middle name or initial, the typewritten version of the name will be used.[1]

Nonetheless, an application data sheet has been submitted with the full names of joint inventors Bahjat and Cook indicated, as desired and the corrections have been made.

This matter is being referred to Technology Center 1645 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
Senior Petitions Attorney
Office of Petitions

[1] MPEP 605.04.

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5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Sai Yiu Duncan Ho et al	:	
Application No. 10/773,660	:	DECISION ON PETITION
Filed: February 6, 2004	:	
Attorney Docket No. 030351	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 15, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on March 16, 2006. A Notice of Abandonment was mailed on August 18, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of an amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of December 15, 2005 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2617 for appropriate action in the normal course of business on the reply received January 8, 2007.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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Peter H. Priest
5015 Southpark Drive, Suite 230
Durham, NC 27713

Mail Date: 04/21/2010

Applicant	: Gerald George Pechanek	: DECISION ON REQUEST FOR
Patent Number	: 7577824	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/773,673	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1315** 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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DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET - SUITE 2400
PHILADELPHIA, PA 19103-2307

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Paul A. Lotke	:	
Application No. 10/773,684	:	DECISION ON PETITION
Filed: February 6, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 4323-P03363US0	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 17, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3738, for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/773,684	02/06/2004	3738	1275	4323-P03363US0	49	6

CONFIRMATION NO. 7807

CORRECTED FILING RECEIPT

OC000000025804236

110
DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

Date Mailed: 09/13/2007

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)

Paul A. Lotke, Gladwyne, PA;

Power of Attorney: The patent practitioners associated with Customer Number **000110**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/535,967 01/12/2004

Foreign Applications

If Required, Foreign Filing License Granted: 05/07/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/773,684

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Patello-femoral prosthesis

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

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In re Application of	:	
Mervyn John ROSE, et al	:	
Application No. 10/773,696	:	DECISION ON PETITION
Filed: February 6, 2004	:	
Attorney Docket No. 85170-5100	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 7, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 2, 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 January 3, 2008.

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

Turning first to item (3) above, the statement of unintentional delay is not considered at this time to be a properly submitted statement. In this regard, the petition containing the statement of unintentional delay is signed by James Houston. It is further noted that, in a paper filed with the petition, Mr. Houston is stated to be the Director of Research and Innovation Services. Petitioner's attention is directed to 37 CFR 1.33(b), which states.

> *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
>
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
>
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

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

Therefore, as the petition containing the statement of unintentional delay is not signed by all the inventors and the record herein fails to disclose that petitioner herein (James Houston) was ever given a power of attorney to act on behalf of the other inventors, **or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b)**, the petition is considered to not contain a proper statement of unintentional delay. As it appears that Mr. Houston is signing on behalf of an assignee, compliance with 37 CFR 3.73(b) must be satisfied. In this regard, 37 CFR 3.73(b) provides:

> (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment * * * For patent matters only, the submission of the documentary evidence must be accompanied by 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).

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, *e.g.*, an officer of the assignee.

(c) For patent matters only:

(1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.

(2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

In view of the above, and as it appears that Mr. Houston is signing the statement of unintentional delay as an assignee, then compliance with 37 CFR 3.73(b) must be satisfied. A blank certificate under 37 CFR 3.73(b) is enclosed with this decision for petitioner's convenience.

As to item (1) above, the reply is considered defective also for the reasons stated above (that the paper (reply) must be signed by a proper party; *i.e.*, all the inventors or an assignee of the entire interest and, if signed by an assignee of the entire interest, must satisfy the provisions of 37 CFR 3.73(b).

In sum, petitioner must submit a petition containing a statement of unintentional delay and reply (amendment) signed by all the inventors, **unless** petitioner herein is the assignee of the entire right, title and interest in the instant application, then compliance with 37 CFR 3.73(b) must be satisfied, which can be accomplished by completion of the enclosed certificate under 37 CFR 3.73(b).

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 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

Any questions concerning this matter may be directed to the undersigned at (571) 272-6735.

Thurman Page
Petitions Examiner
Office of Petitions

Enclosure: Certificate under 37 CFR 3.73(b) and Privacy Act Statement

PTO/SB/96 (08-08)
Approved for use through 09/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature	Date
Printed or Typed Name	Telephone Number
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10773696 Total Records Found: 13

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
05/08/2008	00004160	4	1453	$1,540.00	05/07/2008	DA 501814
08/03/2007	00006822	4	1801	$790.00	08/03/2007	DA 501814
07/02/2007	00001625	4	2253	$510.00	06/29/2007	DA 501814
07/02/2007	00001626	4	2401	$250.00	06/29/2007	DA 501814
05/05/2006	00000081	1	1253	$1,020.00	05/01/2006	DA 501814
05/05/2006	00000141	1	1806	$180.00	05/01/2006	DA 501814
08/03/2005	00000011	1	1253	$1,020.00	07/28/2005	DA 501814
08/03/2005	00000012	1	1806	$180.00	07/28/2005	DA 501814
06/04/2004	00000245	1	1051	$130.00	06/01/2004	DA 501814
06/03/2004	00000280		8021	$40.00	06/03/2004	DA 501814
02/12/2004	00000071	1	1001	$770.00	02/06/2004	DA 501814
02/12/2004	00000072	1	1202	$324.00	02/06/2004	DA 501814
02/12/2004	00000073	1	1201	$344.00	02/06/2004	DA 501814

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Mervyn John ROSE et al.

Application No.: 10/773,696

Filing Date: February 6, 2004

For: FIELD EMISSION BACKPLATE

Confirmation No.: 7787

Group Art Unit: 2813

Examiner: Laura M. Schillinger

Attorney Docket No.: 85170-5100

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

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

Sir:

I am an official of THE UNIVERSITY COURT OF THE UNIVERSITY OF DUNDEE, Nethergate, Perth Road, Dundee DD1 4HN, Great Britain, the Assignee of the entire interest in and to the above-identified application by virtue of an assignment which was recorded on June 1, 2004 at Reel 014681, Frame 0227. This petition is made on behalf of and for the benefit of the Assignee.

The above-identified application became abandoned for failure to respond to the office action dated October 3, 2007. Such abandonment was unintentional.

The Assignee hereby petitions for revival of this application and encloses in support thereof a full response to the office action. The Assignee further confirms that the entire delay in filing of the required reply from the due date up to the filing of a grantable petition for revival under 37 CFR 1.137(b) was unintentional.

Respectfully submitted,

Date: 22/4/08

By:
Position: James Houston
Director
Research & Innovation Services

NY:1120888.3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Mervyn John ROSE et al.	Confirmation No.: 7787
Application No.: 10/773,696	Group Art Unit: 2813
Filing Date: February 6, 2004	Examiner: Laura M. Schillinger
For: FIELD EMISSION BACKPLATE	Attorney Docket No.: 85170-5100

FEE FOR PETITION FOR REVIVAL

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

Sir:

The fee for the filing of the concurrently filed Petition for Revival is estimated to be $1,540.00. Please charge this and any other fees for processing this application to Winston & Strawn LLP's Deposit Account No. 50-1814.

Respectfully submitted,

Date: 5-7-08

Allan A. Fanucci (Reg. No. 30,256)

WINSTON & STRAWN LLP
CUSTOMER NO. 28765
(212) 294-3311

NY:1120888.3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Mervin John ROSE et al.	Confirmation No.: 7787
Application No.: 10/773,696	Group Art Unit: 2813
Filing Date: February 6, 2004	Examiner: Laura M. Schilling
For: FIELD EMISSION BACKPLATE	Attorney Docket No.: 85170-5100

Submission Of
Petition For Revival Of An Application For Patent Abandoned
Unintentionally Under 37 CFR 1.137(b) And Amendment

Mail Stop: DAC
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In response to the Notice of Abandonment dated April 21, 2008 and Office Action dated October 2, 2007, Applicants respectfully submit herewith following documents into the record of this above-identified application.

1. Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b);

2. Fee For Petition For Revival; and

3. Amendment.

Please charge all required fees to Winston & Strawn LLP Deposit Account No. 50-1814.

Respectfully submitted,

Date: 5-7-08

Allan A. Fanucci (Reg. No. 30,256)

WINSTON & STRAWN LLP
CUSTOMER NO. 28765
(212) 294-3311

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

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JAN 21 2009

In re Application of	:	
Mervyn John ROSE, et al	:	
Application No. 10/773,696	:	DECISION ON PETITION
Filed: February 6, 2004	:	
Docket No. 85170-5100	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 2, 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 January 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; and (3) and the required 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 2813 for appropriate action by the Examiner in the normal course of business on the reply received November 12, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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OFFICE OF PETITIONS

In re Application of	:	
Bauman, Natan	:	
Application No. 10/773,731	:	ON PETITION
Filed: February 5, 2004	:	
Attorney Docket No. NHS-0010	:	

This is a decision on the petition under 37 CFR §1.102(d), filed July 7, 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 2615 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

MARK CLODFELTER
555 SPARKMAN DRIVE
SUITE 1602D
HUNTSVILLE AL 35816

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OCT 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Philip Moore.	:	
Application No. 10/773,742	:	ON PETITION
Deposited: February 6, 2004	:	
Attorney Docket No.: MOOREPAT1	:	

This is a decision on the petition filed September 3, 2004, requesting in effect, that a Notice of Incomplete Nonprovisional Application ("Notice") mailed August 10, 2004, be withdrawn and a filing date granted.

Application papers in the above-identified application were deposited on February 6, 2004. However, on August 10, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicant that the application papers had **not** been accorded a filing date because the application was deposited without drawings.[1]

In response, 9 sheets of drawings, including figures 1-8 and the present petition were filed on September 3, 2004. The petition contends that the application as filed included 9 sheets of drawings and were described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of "drawing" on February 6, 2004.

---

[1] See 35 U.S.C. 111(a)(4)

Applicant's postcard receipt is prima facie[2] evidence that drawings were received on February 6, 2004, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 9 sheets of drawings, including figures 1-8, were received on February 6, 2004, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted. No petition fee is required. Accordingly, a treasury check in the amount of $130.00 is being refunded.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of February 6, 2004**, using the 9 sheets of drawings supplied on September 3, 2004.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

[2]A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

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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Kenneth E. Jenkens, Eqs.
Townsend and Townsend and Crew, LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

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MAY 31 2007

OFFICE OF PETITIONS

In re Application of	:	
Gerald Koelsch et al.	:	
Application No. 10/773,754	:	DECISION ON PETITION
Filed: February 6, 2004	:	TO WITHDRAW
Attorney Docket No. 022266-000930US	:	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 7, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "Assignees instructed application be transferred to new law firm for prosecution", does not meet any of the conditions set forth in 37 CFR 10.40 as there is no indication that an assignee has intervened in this application in accordance with 3.71 and 3.73(b).

Applicant is further advised that an assignee has not properly intervened in this application. If the assignee of the entire interest under 37 CFR 3.71 desires to intervene in this application or appoint counsel to represent him, then a proper 3.73(b) statement setting forth the chain of title of the assignment as well as proper power of attorney documents must be submitted. Note 37 CFR 3.73(b).

A courtesy copy of this decision is being mailed to applicant and to the address noted on the request.

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

A final rejection was mailed on January 17, 2007. Failure to timely respond will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Oklahoma Medical Research Foundation
825 N.E. 13th Street
Oklahoma City, OK 73104

cc: Morrison & Foerster
755 Page Mill Road
Palo Alto, CA 94304-1018

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Mark G. Erlander, et al.	:	
Application No. 10/773,761	:	DECISION ON PETITION
Filed: February 6, 2004	:	TO WITHDRAW
Attorney Docket No. 022041-001420US	:	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 4, 2007.

The request is **NOT APPROVED**.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: PATENTIQUE, PLLC
PO BOX 5803
BELLEVUE, EA 98006

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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FSP LLC
ATTN: CHARLES A. MIRHO
P.O. BOX 890
VANCOUVER, WA 98666

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FEB 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Merlin E. Thomsen	:	
Application No. 10/773,764	:	DECISION ON PETITION
Filed: February 6, 2004	:	TO MAKE SPECIAL
Attorney Docket No. FSP0042	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c), filed January 26, 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 IV: Applicant's Age.

The petition is **DISMISSED**.

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

The instant petition does not provide any evidence of the applicant's age nor does it provide a statement from the applicant stating that he/she is 65 years of age, or more. Accordingly, the petition is dismissed as failing to present sufficient evidence that the applicant is 65 years of age or more.

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

The application is being forwarded to the Technology Center Art Unit 3764 for action in its regular turn.

Irvin Dingle
Petitions Examiner
Office of Petitions

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FSP LLC
PO BOX 890
VANCOUVER, WA 98666

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OFFICE OF PETITIONS

In re Application of	:	
Merlin E. Thomsen	:	
Application No. 10/773,764	:	DECISION ON PETITION
Filed: February 6, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. FSP0042	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 10, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from Inventor Marlin E. Thomsen stating that he/she is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3764 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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JACQUES M. DULIN
INNOVATION LAW GROUP
224 W. WASHINGTON STREET
NETPORT CENTER SUITE 201
SEQUIM, WA 98382

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Roger V. Maes	:	DECISION ON PETITION
Application No. 10/773,781	:	TO MAKE SPECIAL
Filed: February 6, 2004	:	37 CFR 1.102(c)
Attorney Docket No. 7268-1	:	

This is a decision on the petition under 37 CFR 1.102(c), filed August 1, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special as set forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The instant petition includes a statement by Roger V. Maes attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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 Technology Center AU 3723 for expedited prosecution.

Dean Potter for
Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

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JUN 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Sakai et al.	:	
Application No. 10/773782	:	DECISION ON PETITION
Filed: 02/05/2004	:	
Attorney Docket No. FUJM 20.945	:	

This is a decision on the petition, filed 11 January, 2006, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action requiring restriction and/or election mailed on 11 July, 2005, which set a one (1) month shortened statutory period for reply. Accordingly, a reply was due on or before 12 August, 2005.

Petitioners state that a timely reply was filed via certificate of facsimile transmission on 3 August, 2005, which included the following papers: RESPONSE TO RESTRICTION REQUIREMENT. Petitioners have submitted a copy of the previously faxed correspondence, which bears a certificate of facsimile transmission dated 3 August, 2005, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is

dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

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

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

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of 11 July, 2005, is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on 3 August, 2005.

This application is being referred to Technology Center AU 2839 for appropriate action in the normal course of business on the reply received with petition.

DIWood

Douglas I. Wood
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of :
Thomas W. Dubensky Jr., et al. :
Application No. 10/773,792 : ON PETITION
Filed: February 6, 2004 :
Attorney Docket No. 282172002900 :

This is a decision on the petition under 37 CFR 1.182, filed November 10, 2004, to correct the name of one of the joint inventors.

The petition is **GRANTED.**

Office records have been updated to reflect the correction to inventor David Cook's name to David N. Cook. A corrected Filing Receipt which reflects this correction accompanies this decision on petition.

Telephone inquiries concerning this matter may be directed to Retta Williams at (571) 272-3229.

This matter is being referred to the Technology Center, Art Unit 1645 for further processing.

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AGILENT TECHNOLOGIES, INC.
Legal Department, DL 429
Intellectual Property Administration
P.O. Box 7599
Loveland CO 80537-0599

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MAY 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Louis F. Mueller, et al.	:	
Application No. 10/773,794	:	ON PETITION
Filed: February 5, 2004	:	
Attorney Docket No. 10040057-1	:	

This is a decision on the petition under 37 CFR 1.137(b) filed September 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 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. The Notice of Abandonment was mailed August 7, 2007.

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

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

The application file is being referred to Technology Center AU 2624 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Calvin B. Ward**
18 Crow Canyon Court, Suite 305
San Raomon, CA 94582

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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John K. Shimmick
Townsend and Townsend and Crew, LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

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MAR 27 2007

OFFICE OF PETITIONS

In re Application of

Vijayen Veerasamy et al.
Application No. 10/773,796
Filed: February 6, 2004
Attorney Docket No. 014089-00258OUS

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 25, 2007.

The request is **APPROVED**.

A review of the file record indicates that John Schimmick of the firm Townsend and Towsend and Crew, LLP: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, John Schimmick and all the attorneys associated with customer number 20350 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. As no assignee has intervened in this application, all future communications from the Office will be directed to the first signing inventor at the first copied address below. If assignee desires to be represented by counsel or to intervene and receive correspondence regarding this application, compliance with 3.73(b) must be satisfied. A courtesy copy of this decision is being mailed to the assignee at the address supplied in the petition.

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.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Vijayen Veerasamy
35717 N. Grandview Court, #102
Farmington Hills, MN 48335

cc: J. Nicholas Gross
United Module Corporation
2030 Addison Street, Suite 610
Berkeley, CA 94702

UNITED STATES PATENT AND TRADEMARK OFFICE

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Neil G. Cohen
Leighton Technologies LLC
75 Montebello Road
Suffern NY 10901

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MAY 0 4 2004
OFFICE OF PETITIONS

In re Reissue Application of:
Leighton
Application No. 10/773,810
Filed: February 6, 2004
Attorney Docket No. LT-REISSUE
For: ULTRA-THIN FLEXIBLE DURABLE RADIO FREQUENCY IDENTIFICATION DEVICES AND HOT OR COLD LAMINATION PROCESS FOR THE MANUFACTURE OF ULTRA-THIN FLEXIBLE DURABLE RADIO FREQUENCY IDENTIFICATION DEVICES

DECISION ON PETITION

This is a decision on the petition, filed March 19, 2004, under 37 CFR 1.182 to act on a reissue application without a two month delay because of alleged actual infringement.

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

After the mailing of this decision, the application file will be forwarded to Technology Center 2600 for immediate examination.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: John E. Jones	: DECISION ON REQUEST FOR
Patent Number	: 7635082	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/773,827	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1658** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/4/2008

TO SPE OF : ART UNIT **1700 (1771)**

SUBJECT : Request for Certificate of Correction on Patent No.:**7,238,630**

Attn: Jenna Johnson

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 dependency of claims 18,19 & 20 "4 to 17" as req. in COCIN?**

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.

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

Comments:

_____

_____

_____

_____

_____

SPE AU 1794

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McAndrews Held & Malloy, LTD
500 West Madison Street
Suite 3400
Chicago, IL 60661

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FEB 29 2008

In re Application of	:	
Brian Jones	:	
Application No. 10/773,833	:	DECISION ON PETITION
Filed: February 6, 2004	:	TO WITHDRAW
Attorney Docket No. 2093/15385US01	:	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 10, 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 George Wheeler on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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: **Brian Jones**
1673 Brigham Lane
Crystal Lake, IL 60014

cc: **Michael Deacon**
1384 Cunat Court
Lake in The Hills, IL 60156

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/773,833	02/06/2004	Brian Jones	2093/15385US01

CONFIRMATION NO. 7170

POWER OF ATTORNEY NOTICE

OC000000028567818

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Date Mailed: 02/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/10/2007.

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

/tswilliams/

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

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OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

In re Application of	:
Dennis M. O'Connor et al	:DECISION GRANTING FILING
Application No. 10/773,847	:DATE OF February 5, 2004
Filed: Februry 5, 2004	:
Attorney Docket No. 42390.P15392	:

This is a decision on the petition filed April 21, 2005 which is being treated as a petition under 37 CFR 1.10, requesting that the above-identified application be accorded a filing date of February 5, 2004, rather than the presently accorded date of February 6, 2004.

Petitioner alleges that the Date-In field of the Express Mail label is incorrect because the Post Office clerk mistakenly inserted the time of submittal in both the "Date-In" entry and the "Time-In" entry. In support, petitioner has submitted a copy of the USPS Track & Confirm, which verifies the acceptance date as February 5, 2004 in Lake Oswego, OR., for Express Mail label No. EV325531759US. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal."

In view of the above, it is concluded that the application was deposited as "Express Mail" with the USPS on February 5, 2004.

The petition is **granted**.

The application file is being referred to the Office of Initial Patent Examination for processing with a filing date of **February 5, 2005,** and for the mailing of a corrected Filing Receipt.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (571) 272-3208.

Karen Creasy

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,861	02/06/2004	Linda Gottfried	0093-1 CIP	1921

25901 7590 04/16/2009
ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC.
231 SOMERVILLE ROAD
BEDMINSTER, NJ 07921

EXAMINER
LUU, LE HIEN

ART UNIT	PAPER NUMBER
2441	

MAIL DATE	DELIVERY MODE
04/16/2009	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.

DECISION ON PETITION ROUTING SLIP

Application No.: 10/773,861 ~~10366187~~ 10/773861 *10~~366187~~*

Art Unit: 2441 2121

For Director's Secretary:

☐ **Granted** ☐ **Denied** ☑ **Dismissed**

☐ Decision to be reviewed and signed by Director

☑ Mail Decision & enter decision in ~~Petition~~ ~~Database~~ PALM code 699

☑ Forward a copy of the mailed decision to IFW for scanning

~~☑ Enter Paper Nos [ ] and the decision in PALM~~

☐ Other

MAILED

APR 16 2009

TECHNOLOGY CENTER 2100

For TECH Support Staff:

☐ Process and enter Paper Nos.

☐ Charge [ ] fee to D.A. No

☐ Other

☑ Forward file to

~~Examiner to consider the Appeal Brief~~

Quality Assurance Specialist No. 1:	Quality Assurance Specialist No. 2:	Quality Assurance Specialist No. 3:	Quality Assurance Specialist No. 4:
Vincent Trans WQAS 2160 RND-4B07 (571) 272-3613	Brian Johnson, WQAS 2110, RND 4A01 (571) 272-3595		Tod Swann

Quality Assurance Specialist No. 5:	Quality Assurance Specialist No. 6:	Quality Assurance Specialist No. 7:	Quality Assurance Specialist No. 8:
Gail Hayes	Kakali Chaki WQAS 2120, RND 5A05 (571)272-3719	Rehana Perveen, WQAS 2100, RND 3A75, (571)272-3676	Mano Padmanabhan WQAS 2180, RND 2A79 (571) 272-4210

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov.

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APR 16 2009

TECHNOLOGY CENTER 2100

Ernest D. Buff
Ernest D. Buff and Associated, LLC.
231 Somerville Rd.
Bedminster, NJ 07921

In re Application of: GOTTFRIED, Linda Application No. 10/773,861 Attorney Docket No. 0093-1 CIP Filed: February 6, 2004 For: METHOD AND SYSTEM FOR SHARING BRAND INFORMATION	)))))	**DECISION ON PETITION UNDER 37 C.F.R. ɜ 1.84(a)(2) TO ACCEPT COLOR DRAWINGS**

This is a decision on the petition under 37 C.F.R. 1.84(a)(2), filed January 25, 2008, requesting acceptance of color drawings

The petition is **DISMISSED**.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.84(a)(2) states:

(2) *Color.* On rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. The color drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white in the printed patent. Color drawings are not permitted in international applications (see PCT Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary. Any such petition must include the following:

(i) The fee set forth in § 1.17(h);

(ii) Three (3) sets of color drawings;

(iii) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

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

DECISION

The petition, filed January 25, 2008 properly states the necessity of the color drawings, and provides the required fee. The amendment to the specification filed on November 12, 2008 properly amends the first paragraph of the specification to include the proper reference to the color drawings. The filed color drawings are in the proper format, but upon inspection of the file there are not three copies of each color drawings provided to the Office. *See* 37 C.F.R. § 1.84(a)(2)(ii).

For the above reasons, the petition is **DISMISSED**.

The color drawings filed February 6, 2004 are not accepted at this time.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/kb/

Kim Huynh, WQAS
Technology Center 2400
Network, Multiplexing, Cable and Security

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

D.D.DeMasi, Sr.
1216 Beekman Road
Hopewell Junction, NY 12533

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OCT 0 6 2006
OFFICE OF PETITIONS

In re Application of	:	
Douglas D. DeMasi	:	
Application No. 10/773,872	:	ON PETITION
Filed: June 10, 2004	:	
Title of Invention: SELF	:	
ADHESIVE INSULATION, WITH	:	
EXTENDED, PREFOLDED OR	:	
ELASTIC FASING TABS, SELF	:	
ADHESIVE NET, SELF ADHESIVE	:	
AIR VENT, SELF ADHESIVE PAPER	:	
HANGING SUPPORT STRIPS	:	

This is a decision in response to the correspondence filed May 23, 2006, wherein Applicant states that he mailed correspondence to this office on April 19, 2006, and that he does not understand the Notice of Abandonment mailed April 12, 2006. The correspondence is treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.181". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers ("Notice"), mailed August 16, 2004. The Notice set a two (2) month period for reply from the mail date

of the Notice. Extensions of time under 37 CFR 1.136(a) were available.

Applicant filed a response to the Notice on October 8, 2004; however, the response was incomplete. Applicant was so notified in a Notice of Incomplete Reply mailed October 25, 2004. The Notice of Incomplete Reply mailed October 25, 2004, also stated that the period for reply remained as set forth in the Notice to File Corrected Application Papers ("Notice"), that was mailed on August 16, 2004. (That Notice had set a two (2) month period for reply, and provided for extensions of time).

No response to the Notice of Incomplete Reply, mailed October 25, 2004, was received. Accordingly the application became abandoned for failure to reply to Notice to File Corrected Application Papers ("Notice"), mailed August 16, 2004, after the two (2) month period expired, on October 17, 2004.

The instant petition

Applicant files the instant petition wherein Applicant states that he mailed correspondence to this office on April 19, 2006, and that he does not understand the Notice of Abandonment mailed April 12, 2006.

Applicant is advised that the application became abandoned because Applicant did not reply to the Notice to File Corrected Application Papers ("Notice"), that was mailed to him on August 16, 2004, within the two (2) months set in the Notice. The Notice required additional claim fees of $1,511.00. The Notice also provided for extensions of time; however, Applicant is also advised that extensions of time require the appropriate fee commensurate with the extension period (one month; two months; three months, etc.) requested. A list of current fees is available at www.uspto.gov.

The Notice clearly set forth the period for reply and also provided for extensions of time. Applicant is advised that it is Applicant's responsibility to ensure that timely and proper replies are filed. That Applicant was unsure or unclear as to the rules of practice in this Office does not excuse Applicant of the responsibility to file a timely, complete and proper reply to Office communications as the condition of the case requires.

Because the application is now abandoned, Applicant must revive the application before the amendment may be considered by the Examiner.

Alternate Venue

Applicant is strongly urged to file a petition to revive the application. In order to revive an application, the following requirements must be met:

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the 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 filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Applicant is further advised to contact the Office of Independent Inventors, www.uspto.gov and at 703-306-5568, and the Patent Assistance Center, at 1-800-786-9199, or to seek the assistance of a registered practitioner, for assistance in prosecuting his patent application.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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D.D.DeMasi, Sr.
1216 Beekman Road
Hopewell Junction NY 12533

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OCT 1 5 2007

OFFICE OF PETITIONS

In re Application of Douglas D. DeMasi Application No.: 10/773872 Filing or 371(c) Date: 06/10/2004 Title of Invention: SELF ADHESIVE INSULATION, WITH EXTENDED, PREFOLDED OR ELASTIC FASING TABS, SELF ADHESIVE NET, SELF ADHESIVE AIR VENT, SELF ADHESIVE PAPER HANGING SUPPORT STRIPS	:	DECISION ON PETITION

This is a decision in response to the correspondence filed October 23, 2006, in response to a Decision dismissing a petition to withdraw the holding of abandonment. The correspondence is properly treated as a renewed petition to withdraw the holding of abandonment under 37 CFR 1.181. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers, mailed August 16, 2004. The Notice set a two (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a Reply to the Notice on October 8, 2004; however, the reply was incomplete. Applicant was so notified in a Notice of Incomplete Reply, mailed October 25, 2004. The Notice of Incomplete Reply, mailed October 25, 2004 also stated that the period for reply remained as set forth in the Notice (which was two months from the mail date of the Notice mailed August 16, 2004).

No complete and proper reply to the August 16, 2004 Notice having been received, the application became abandoned on October 17, 2004. A Notice of Abandonment was mailed April 12, 2006.

May 23, 2006 Petition under 37 CFR 1.181

Applicant filed a petition to withdraw the holding of abandonment on May 23, 2006, wherein Applicant asserted that he mailed correspondence to this Office on April 19, 2006, and that he did not understand the Notice of Abandonment mailed April 12, 2006.

The October 23, 2006 Decision

A Decision on the petition to withdraw the holding of abandonment was mailed October 23, 2006. The Decision informed Applicant that:

1. The application became abandoned for failing to file a complete and proper reply to the August 16, 2004 Notice, which required additional claim fees of $1,511.00.;

2. Extensions of time to respond to the Notice were available; however, extensions of time also require the appropriate extension of time fee, and that a list of current fees was available at www.uspto.gov;

3. The Notice clearly set forth the period for reply, and that it is Applicant's responsibility to ensure that a timely and proper reply is filed;

4. That Applicant was unure or unclear as to the rules of practice in this office does not excuse Applicant of the responsibility to file a timely, complete and proper reply to the Notice, as the condition of the case requires, and

5. The application is abandoned and required revival

The Decision set forth the requirements for a grantable petition and also provided Applicant with contact information for the Office of Independent inventors and the Patent Assistance Center.

The present renewed petition

Applicant files the present renewed petition and asserts that there is confusion on the part of this office and of himself, and that he has copies of canceled checks to prove that required payments to this Office were made. Applicant states that he made the mistake of mailing two applications in one envelope, which resulted in a mix-up of the paperwork. Applicant encloses copies of what he has mailed to this Office.

Analysis

1. Abandonment of the Application

This application is abandoned. The Notice to File Corrected Application Papers that was mailed to Applicant on August 16, 2004 required Applicant to file a Substitute Specification and additional claim fees in the amount of $1,511.00.

A review of the file reveals that Applicant received the Notice and mailed the Notice back to this Office on October 4, 2006, with comments stating that "enclosed is the extension fee. In 30 days, $50.00 check #2280. Can you please mail me a copy of my application so I can better understand your correction that you want me to do."

Applicant is again informed that the Notice required Applicant to file a Substitute Specification and additional claim fees in the amount of $1,511.00. The Notice required Applicant to file a Substitute Specification and additional claim fees in the amount of $1,511.00 in two months.

Applicant is advised the an application goes abandoned according to statute and Office rules. The statute, 35 U.S.C. § 133, Time for prosecuting application, states

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

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

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

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

Here, Applicant filed a reply to the Notice that was neither complete or proper. Applicant is advised that, as provided in the Manual of Patent Examining Procedure,

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. **Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application**.

MPEP 711.03(c).

Conclusion

Here, there is no dispute as to the status of the application. The application is abandoned. A petition to revive the application (and fee) is the appropriate course of action.

After a decision on any petition for reconsideration, to withdraw the holding of abandonment, under 37 CFR 1.181, no further reconsideration or review of the matterrequesting withdrawal of the holding of abandonment will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Director's decision will be based solely on the administrative record in existence.

Alternate Venue

Applicant is urged to file a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00 for a small entity[1].

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Finally, it is apparent that Applicant is unaware of the options available in this matter. Applicant is advised that a list of registered practitioners is available at www.uspto.gov/main/patents. Applicant is further advised that there are two Offices: the Office of Independent Inventors, at

[1] Applicant is further advised that a grantable petition under 37 CFR 1.137(b) requires, in addition to the petition and petition fee, the required reply, to wit, an acceptable appeal brief; a continuing application; a Request for Continued Examination ("RCE"), or a reply that places the application in condition for allowance.

703-306-5568; and the Patent Assistance Center, at 1-800-786-9199, available to provide assistance in prosecuting patent applications.

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

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

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

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

For inquiries on the options available to Applicant, Applicant is advised that a list of registered practitioners is available at www.uspto.gov/main/patents. Applicant is again advised that there are two Offices: the Office of Independent Inventors, at 703-306-5568; and the Patent Assistance Center, at 1-800-786-9199, available to provide assistance in prosecuting patent applications.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

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JUL 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Phil Verinsky, et al.	:	
Application No. 10/773,880	:	ON PETITION
Filed: February 6, 2004	:	
Attorney Docket No. 3551P006C3	:	

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

The petition is **GRANTED**.

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

This application is being revived for consideration of the RCE.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2100.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of :
Bharwada Upen :
Application No. 10/773,887 :
Filed: February 6, 2004 : ON PETITION
Attorney Docket Number: :
03-10 :

This is a decision on the Petition Under 37 CFR § 1.53(e) to Accord a Filing Date, filed August 16, 2004, requesting the application be accorded a filing date of February 6, 2004, including 1 sheet of drawing Figures described in the specification.

The petition is **granted**.

The application was filed on February 6, 2004. However, on July 22, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that a filing date had NOT been accorded the application because the application had been deposited without drawings.

In response, Petitioner files the instant petition wherein Petitioner avers that one (1) sheet of drawings was originally filed with the application on February 6, 2004, and was received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 1 sheets of drawings on February 6, 2004.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 1 sheets of drawings on February 6, 2004. Petitioner has also re-submitted the one (1) sheet 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.

The copy of one (1) sheet of drawings supplied on August 16, 2004, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 50-0263 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of February 6, 2004, and an indication that one (1) sheet of drawings, comprising Figure 1, was present on filing, using the one (1) sheet of drawings, comprising Figure 1 filed on August 16, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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OCT 22 2007

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United States Patent and Trademark Office
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AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND CO 80537-0599

In re Application of	:
Srinka Ghosh	:
Serial No.: 10/773,890	: PETITION DECISION
Filed: February 6, 2004	:
Attorney Docket No.: 10030771-1	:

This is in response to the petition under 37 CFR 1.144, filed September 24, 2007, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on February 6, 2004, and contained claims 1-26. In a first Office action, mailed August 30, 2006, the examiner required restriction, as follows:

> Group I – Claims 1-14 and 25 drawn to a method of processing microarray data;
> Group II – Claim 15 drawn feature signal data; and
> Group III – Claims 16-24 and 26 drawn to a system for processing microarray data.
>
> An election of species was also required for Group I, if elected.

The examiner reasoned that the system (apparatus) and method of use were separate and distinct inventions and were also different from the raw data of Group II.

Applicants replied on October 16, 2006, electing Group III with traverse. Applicants argued that the examiner has failed to establish that Groups I and III were separate and distinct and that the same process steps were employed in both and there would be no burden to consider both together.

The examiner mailed a new Office action to applicants on May 22, 2007, acknowledging the election of Group III, but maintaining the requirement and making it Final. The examiner maintained the argument that the process and apparatus claims were distinct inventions. Claims

16-24 and 26 were then rejected under 35 U.S.C. 112, second paragraph, as indefinite and explained why. Claims 16-24 and 26 were also rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Finally, claims 16-24 and 26 were rejected under 35 U.S.C. 102(a) as anticipated by Bozinov.

This petition was filed on September 24, 2007, and traverses the finality of the restriction requirement as in error. **Note** - Applicants indicate that a reply to the merits of the Office action was filed on August 22, 2007, but such reply cannot be found in the file and should be resubmitted with evidence of prior submission to avoid extension of time fees.

DISCUSSION

Applicants' petition appears to be primarily directed to the restriction between Groups I and III and that since the same four process steps appear in each independent claim they should be examined together since a search for the process steps would be required for each one. Further, the only significant difference between the claim sets is the presence of a processor (i.e. a computer) which does not lend novelty to the claim set. A review of applicants' arguments and the claim sets involved show applicants' arguments to be correct. In view thereof the Groups should be examined together.

Applicants also briefly traverse the restriction with respect to Group II. A review of Claim 15 (Group II) shows that it is directed to a data set only and is considered non-statutory as it stands. In view of this it will not be rejoined with Groups I and III.

DECISION

The petition is **GRANTED.** The restriction requirement between Groups I and III is withdrawn and these claims will be examined together. Any response should address the rejections of record as if they applied to all of the claims of these two Groups.

Applicants remain under obligation to reply to the Office action mailed May 22, 2007, within the time period set therein or as extended under 37 CFR 1.136(a), (unless such response has been filed – see note above).

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

Christopher Low

Christopher Low
Acting Director, Technology Center 1600

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PETER G. CARROLL
MEDLEN & CARROLL, LLP
SUITE 350
101 HOWARD STREET
SAN FRANCISCO CA 94105

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JAN 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Min-Hao Kuo	:	
Application No. 10/773,911	:	DECISION ON PETITION
Filed: 6 February, 2004	:	
Atty Docket No. MSU-08548	:	

This is a decision on the petition filed on 6 November, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 22 June, 2006, for failure to timely reply to the non-final Office action mailed on 21 March,

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

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

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

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

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

2006, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 10 October, 2006.

Petitioner has filed an amendment with the present petition.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three-month extension request filed on 6 November, 2006, was submitted more than six (6) months after the end of the period for reply to the Office communication mailed on 21 March, 2006, and therefore is unnecessary. It is also noted that the extension of time fee has been charged twice. Both extension of time fees will be credited to counsel's deposit account. The duplicate petition fee will also be credited to counsel's deposit account.

This application is being referred to Technology Center Art Unit 1636 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE, SUITE 400
NEWPORT BEACH CA 92660

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JAN 29 2007
OFFICE OF PETITIONS

In re Application of	:	
CHAN, et al.	:	
Application No. 10/773,917	:	DECISION ON PETITION
Filed: March 5, 2004	:	
Attorney Docket No. 155634-0155	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 8, 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 15, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 15, 2006 . Accordingly, the date of abandonment of this application is September 16, 2006 .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

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JUN 12 2006

OFFICE OF PETITIONS

In re Application of :
Cookson, et al. :
Application No. 10/773,944 : ON PETITION
Filed: 6 February, 2004 :
Attorney Docket No. 3054-056 :

This is a decision on a petition filed on 15 December, 2005, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely to the non-final Office action mailed on 26 November, 2004, with reply due absent an extension of time on or before Monday, 28 February, 2005;
- Petitioner filed a reply in the form of an amendment with a fee and request for extension of time on 25 April, 2005;
- the Office mailed a Notice of Non-Compliant Amendment on 13 May, 2005, with reply due absent an extension of time on or before 13 June, 2005;
- the application went abandoned by operation of law after midnight 13 June, 2005;
- the Office mailed the Notice of Abandonment on 21 November, 2005;

- Petitioner filed the instant petition on 15 December, 2005, with fee, reply in the form of a amendment (to which the record refers as an after-final amendment–apparently in error because the record contains at this writing no indication of a final Office action), and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

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[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 2600 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

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

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LONG BEACH, CA 90815

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DEC 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
STAN ROUTT et al	:	
Application No. 10/773,953	:	DECISION ON PETITION
Filed: February 6, 2004	:	TO WITHDRAW
Attorney Docket No. ROUTTRUBIO-1	:	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 21, 2005 and resubmitted on November 28, 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 Curt Harrington, Reg. No. 31,456, sole attorney of record.

Curt Harrington has been withdrawn as attorney or agent of record.

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.

The application is being referred to Technology Center Art Unit 3723 to await applicant's reply, if any, to the final office action mailed September 22, 2005

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: STAN ROUTT
3095 LINDEN AVENUE
LONG BEACH CA 90807

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,976	02/06/2004	Darrel Cherry	200209495-1	7123

7590 04/09/2008
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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
3621	

NOTIFICATION DATE	DELIVERY MODE
04/09/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is 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 granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tomi Farmer

Patent Publication Branch
Office of Data Management

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Adjustment date: 04/08/2008  KKING1
02/12/2004 WABRHAM1 00000002 082025   10773976
02 FC:1202        216.00 CR
03 FC:1201        258.00 CR
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FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CHOATE, HALL & STEWART, LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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AUG 03 2007

OFFICE OF PETITIONS

In re Application of	:	
Han-Chin Lai	:	
Application No. 10/773,985	:	ON PETITION
Filed: February 6, 2004	:	
Attorney Docket No. 2005291-0001	:	

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

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application mailed May 5, 2004. A Notice of Abandonment was mailed on January 18, 2005.

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

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an executed Oath/Declaration along with the surcharge of $130; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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APR 2 8 2006
OFFICE OF PETITIONS

In re Patent No. 6,839,999	:	
Issue Date: January 11, 2005	:	NOTICE
Application No. 10/774,005	:	
Filed: February 6, 2004	:	
Attorney Docket No. 163-533	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed March 6, 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.

The application file is being forwarded to Files Repository.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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M. REID RUSSELL
854 WEST 3390 SOUTH
HURRICANE, UT 84737

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OCT 0 4 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Willis :
Application No. 10/774,007 :
Filed: February 9, 2004 :
Attorney Docket No. 7676 :

This is a decision on the petition under 37 CFR 1.137(a), filed July 12, 2005, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action was mailed on November 15, 2004.

A response to the Office action was not received and the application was deemed abandoned as of midnight on February 15, 2005.

A Notice of Abandonment was mailed on June 9, 2005.

Petitioner contends a reply was timely filed in response to the non-final Office action.

Petitioner has supplied a copy of a postcard receipt which contains the application number handwritten on the receipt along with verification an amendment was received on February 15, 2005. In addition, petitioner has supplied a showing in compliance with 37 CFR 1.8(b).

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

Since the petition has been granted under 37 CFR 1.181, the petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee will be credited back to petitioner's deposit account.

Technology Center Art Unit 3643 will be notified the application is not abandoned and the examiner will consider the amendment in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: Alan Boulanger	: DECISION ON REQUEST FOR
Patent Number	: 7594263	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/774,017	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1629** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

ELMORE PATENT LAW GROUP, PC
515 GROTON ROAD
UNIT 1R
WESTFORD MA 01886

In re Application of	:	
Miao et al.	:	
Application No. 10/774,047	:	ON APPLICATION FOR
Filed: February 6, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 4056.1066 US1	:	

This is in response to the REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b) filed on November 13, 2008. Applicants request that the determination of patent term adjustment be increased from seven hundred thirteen (713) days to at least one thousand three hundred forty-nine (1349) days. Applicants request this correction in part on the basis that the Office will take in excess of three years to issue this patent.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. 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. As such, it is appropriate to dismiss as premature such a request.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **dismissed**.

On October 14, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 713 days. The instant application for patent term adjustment was timely filed. Applicants assert that an adjustment of 100 additional days for Office delay is warranted because the restriction requirement mailed April 16, 2007 was vacated, and a complete Office action was not mailed until January 22, 2008, four (4) months and 100 days after applicants filed a reply to the initial restriction requirement on June 14, 2007.

Applicants' contention has been considered, but not found persuasive. Pursuant to 37 CFR 1.703(a)(1):

> The period of adjustment under § 1.702(a) is the sum of the following periods: the number of days, if any, in the period beginning on the day after the date

> that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

On June 14, 2007, an election and amendment was filed in response to the restriction requirement mailed on April 16, 2007. In response, on July 24, 2007, a non-final Office action was mailed, within four (4) months of the filing of applicant's reply on June 14, 2007. On January 8, 2008, an Interview Summary was mailed, stating that the restriction requirement will be rewritten and that applicants found an additional reference. Also on January 8, 2008, a new restriction requirement was mailed. On January 22, 2008, an Examiner-Initiated Interview Summary was mailed, along with a supplemental restriction requirement. On February 1, 2008, a reply to the restriction requirement was mailed. On March 20, 2008, a non-final Office action was mailed.

Applicants' arguments and evidence have been considered, in light of the application history, and it has been determined that the initial period of adjustment pursuant to § 1.702(a)(2) is correct.

Pursuant to 35 U.S.C. 154(b)(1)(A)(i)(ii), applicants are only entitled to day-to-day restoration of term lost as a result of delay created by the failure of the Office to respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken. In this regard, the Office did respond within four (4) months to petitioner's election filed on June 14, 2007, by issuing the Office action mailed on July 24, 2007. The Office action mailed on July 24, 2007 was not vacated. That another Office action was mailed on January 8, 2008, and a supplemental Office action was mailed on January 22, 2008, does not alter the fact that the Office did respond to the reply within 4 months after the date on which the reply was filed.

Accordingly, the period of adjustment was properly calculated as 713 days, counting the number of days beginning on April 6, 2005, the day after the date that is fourteen months after the date on which the application was filed, to April 16, 2007, the

date of mailing of the restriction requirement, minus twenty-seven (27) days for applicant delay in filing a response on December 9, 2004, three (3) months and twenty-seven (27) days after mailing of the notice to file missing parts mailed on August 12, 2004. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 54366 (September 18, 2000).

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is seven hundred thirteen (713) days.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

ELMORE PATENT LAW GROUP, PC
515 GROTON ROAD
UNIT 1R
WESTFORD MA 01886

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MAY 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,601,709	:	DECISION ON REQUEST
Miao et al.	:	FOR
Issue Date: Oct. 13, 2009	:	RECONSIDERATION OF
Application No. 10/774,047	:	PATENT TERM ADJUSTMENT
Filed: Feb. 6, 2004	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
4056.1066 US1	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 14, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred fifty-one (1651) days. For the reasons stated below, the petition will be treated as a petition 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 six hundred twenty-four (1624) 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 six hundred twenty-four (1624) days is **GRANTED to the extent indicated herein.**

Patentees again assert that an additional period of adjustment of 100 days for Office delay is warranted because the non-final Office action mailed on July 24, 2007, and the restriction requirement mailed on January 8, 2008, were both "incomplete", and a complete Office action was not mailed until January 22, 2008, four (4) months and 100 days after a reply was filed, on

June 14, 2007, in response to the initial restriction requirement.

Patentees' argument has again been considered, but is not persuasive. Pursuant to 37 C.F.R. § 1.702(a),

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

On July 24, 2007, the Office mailed a notification under 35 U.S.C. 132 in response to the reply filed on June 14, 2007. This was within four months of the date the reply was filed. Accordingly, no adjustment was entered for Office delay pursuant to 37 CFR 1.702(a)(2). A review of the record confirms that this was the proper period of adjustment for Office delay.

The subsequent mailing of a communication by the examiner altering the previous action does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(2) on July 24, 2007. The examiner does not have the authority to vacate, rescind, or withdraw an Office action. Unless vacated by the Technology Center Director, for purposes of calculating patent term adjustment, the action originally mailed by the examiner on July 24, 2007 will be used to calculate the amount of Office delay.

With regards to the "B" delay period, the over three year period begins on February 7, 2007 and ends on October 13, 2009, the date the application issued as a patent, and is 980 days. Considering the overlapping periods of 243 (69 + 174) days, the "B" delay is 737 (980 - 737) days.

The patent term adjustment will be updated to 1624 days (914 Office delay + 980 three years delay - 243 overlap - 27 applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand six hundred twenty-four (1624)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,601,709 B2

DATED : **Oct. 13, 2009** **DRAFT**

INVENTOR(S) : Miao 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 953 days.

Delete the phrase "by 953 days" and insert – by 1624 days--

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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
10/774,048	02/04/2004	1655	680	068911-0062	20	36	5

CONFIRMATION NO. 4840

CORRECTED FILING RECEIPT

OC000000016440687

Cathryn Campbell
McDERMOTT, WILL & EMERY
Suite 700
4370 La Jolla Village Drive
San Diego, CA 92122

Date Mailed: 07/01/2005

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 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)

John G. Babish, Brooktondale, NY;
Matthew L. Tripp, Gig Harbor, WA;
Jeffrey S. Bland, Fox Island, WA;
Terrence Howell, Lansing, NY;
Gary K. Darland, Gig Harbor, WA;
Robert H. Lerman, Gig Harbor, WA;
Daniel O. Lukaczer, Gig Harbor, WA;

Power of Attorney:

Cathryn Campbell--31815
David Gay--39200
Andrea Gashler--41029
Simona Levi-Minzi--43750
Deborah Cadena--44048
Astrid Spain--47956

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/472,460 05/22/2003
and claims benefit of 60/450,237 02/25/2003
and is a CIP of 09/885,721 06/20/2001
and is a CIP of 10/689,856 10/20/2003
which is a CIP of 10/464,410 06/18/2003
which is a CIP of 10/400,293 03/26/2003 ABN
and is a CIP of 10/401,283 03/26/2003 ABN
which claims benefit of 60/450,237 02/25/2003
and claims benefit of 60/420,383 10/21/2002

and said 10/689,856 10/20/2003
is a CIP of 10/464,834 06/18/2003
which is a CIP of 10/400,293 03/26/2003 ABN
and is a CIP of 10/401,283 03/26/2003 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 06/03/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/774,048

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Anti-inflammatory pharmaceutical compositions for reducing inflammation and the treatment or prevention of gastric toxicity

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.

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

GRANTED

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

In re Application of	:	
Reynolds et al.	:	DECISION ON PETITION
Application No. 10/774,057	:	
Filed: February 6, 2004	:	
Atty Docket No. 1033-LB1013	:	

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed February 22, 2005. This petition was recently forwarded to the undersigned for consideration.

The above-identified application became abandoned for failure to file a reply to the Notice to File Missing Parts of Application mailed May 6, 2004. This Office action set a two-month time limit for reply, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective July 7, 2004. A courtesy Notice of Abandonment was mailed on January 18, 2005.

In response, applicants promptly filed the instant petition. Applicants contend that a timely response was filed by facsimile transmission on July 6, 2004. In support thereof, applicants submit a copy of the response as filed, a copy of their facsimile confirmation sheet confirming successful transmission, and a copy of the USPTO auto-reply acknowledging receipt of a facsimile transmission sent to 703-746-4060.

Preliminarily, petitioner is reminded that the Office's Centralized Delivery and Facsimile Transmission Policy provides that unless an exception applies, correspondence sent by

facsimile is to be directed to the centralized facsimile number at 571-273-8300. Further, Petitioner's attention is directed to a proposed rule, *Changes to Practice for Documents Submitted to the United States Patent and Trademark Office, Notice of proposed rulemaking*, 73 FR 45662 (August 6, 2008), which may make ineffective facsimile transmissions, such as the one utilized here, received in the Office but directed to facsimile numbers other than the one to which that type of correspondence should be sent.

Petitioner's evidence and arguments have been considered and it is concluded that the requirements of 37 CFR § 1.8(b) have been met. The response (executed declaration and fee transmittal) is considered timely filed by facsimile transmission pursuant to 37 CFR § 1.6(d) on July 6, 2004. It is noted that there is no indication in the record that an unsuccessful attempt was made to charge the fees required to the Deposit Account. Thus, it is concluded that the response was proper.

In view thereof, the Notice of Abandonment mailed January 18, 2005 and the holding of abandonment are hereby **withdrawn**.

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

No fee is required on petition under § 1.181.

The Office of Patent Application Processing has been advised of this decision. The application file is, thereby, forwarded for the Office of Patent Application Processing's technical support staff to withdraw the holding of abandonment and for processing of the response (including an executed declaration, payment of fees and supplemental application data sheet) previously filed on July 6, 2004 and resubmitted on petition filed February 22, 2005.

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

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND OR 97204

COPY MAILED

SEP 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael BLANKENSHIP	:	
Application No. 10/774,063	:	ON PETITION
Filed: February 5, 2004	:	
Attorney Docket No. CNC 301A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 11, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed May 6, 2004, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 7, 2004.

Application No. 10/774,063

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1). Petitioner has submitted the statutory basic filing fee of $395 and the late filing fee or oath or declaration surcharge of $65 set forth in 37 CFR 1.16(e); however, petitioner has failed to submit the oath or declaration.

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 David A. Bucci at (571) 272-7099 or in his absence to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

COPY MAILED

APR 0 6 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Michael BLANKENSHIP	:	
Application No. 10/774,063	:	
Filed: February 5, 2004	:	
Attorney Docket No. CNC 301A	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed May 6, 2004, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 7, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees and oath or declaration; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of May 6, 2004 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.

Application No. 10/774,063

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

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

David Bucci
Petitions Examiner
Office of Petitions

Cc: KOLISCH HARTWELL, P.C.
520 SW YAMHILL STREET
SUITE 200
PORTLAND OR 97204

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

MOTI SHAI
3524 DEL PRADO
CALABASAS, CA 91302

COPY MAILED

FEB 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Moti Shai	:	DECISION ON PETITION
Application No. 10/774,080	:	TO MAKE SPECIAL UNDER
Filed: February 9, 2004	:	37 CFR 1.102(c)(1)
For: LASER BEAM TOY AND MORE	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 11, 2006, to make the above-identified application special based on applicant's health and age as set forth in M.P.E.P. § 708.02, Sections III and IV.

The petition is **DISMISSED AS MOOT**.

This application became abandoned on September 22, 2004 for failure to file a complete reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed July 21, 2004. Accordingly, the petition under 37 CFR 1.102(c)(1) filed January 11, 2006 will not be treated on its merits.

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

This matter is being referred to Files Repository.

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
DIW Jun-06

MOTI SHAI
3524 DEL PRADO
CALABASAS CA 91302

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JUN 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Moti Shai	:	
Application No. 10/774,080	:	ON PETITION
Filed: 9 February, 2004	:	
For: LASER BEAM TOY AND MOUSE	:	

This is a decision in reference to the petition under 37 CFR 1.181 filed on 27 March, 2006, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

This application became abandoned on 22 September, 2004, for failure to submit a proper response to the Notice to File Missing Parts of Nonprovisional Application mailed on 21 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. Petitioner was advised of the abandonment of the application in the Decision on Petition to Make Special Under 37 CFR 1.102(c)(1) mailed on 21 February, 2006.

Petitioner asserts that a proper and timely response to the Notice was filed. Specifically, petitioner asserts that he was not timely informed that the declaration was defective.

A review of the record reveals the following:

1. On 21 July, 2004, the Notice of Missing Parts was mailed, requiring an executed declaration, $10.00 towards the statutory basic filing fee, and a late filing surcharge.

2. On 19 August, 2004, petitioner filed the required fees and the first page of a declaration form. The signature page, however, was missing.
3. On 13 December, 2004, a Notice of Incomplete Reply was filed, stating that the previously filed reply was incomplete because the inventor's signature was missing, and that the period for reply remained as set forth in the Notice mailed on 21 July, 2004.
4. On 14 January, 2005, petitioner filed an executed declaration.

While petitioner did submit an executed declaration on 14 January, 2005, said filing was untimely as a reply to the Notice to File Missing Parts, as the Notice of Incomplete Reply mailed on 13 December, 2004, stated that the time period for reply remained as set forth in the Notice to File Missing Parts mailed on 21 July, 2004. As such, a four (4) month extension of time was required on 14 January, 2005, for a timely reply to the Notice mailed on 21 July, 2004, which set a two (2) month extendable period for reply. As petitioner did not submit a request and fee for a four (4) month extension of time, the application became abandoned as a matter of law on 22 September, 2004.

In this regard, 37 CFR 1.135 states, in pertinent part:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and 1.136, the application will become abandoned unless an Office action indicates otherwise
>
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) must include such complete and proper reply as the condition of the application may require.

As the showing of record is that a complete and timely response was not filed, the application is abandoned.

Petitioner may wish to consider filing a petition to revive the application, accompanied by the proper fee. A copy of the form for filing a petition to revive under 37 CFR 1.137(b), and a copy of the fee schedule, is enclosed.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

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

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

The application is being referred to the Office of Initial Patent Examination for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64
Fee Schedule

[1] 37 CFR 1.181(f).

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee
☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Oct-06

MOTI SHAI
3524 DEL PRADO
CALABASAS CA 91302

COPY MAILED

OCT 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Moti Shai	:	DECISION DISMISSING
Application No. 10/774,080	:	PETITION
Filed: 9 February, 2004	:	
For: LASER BEAM TOY AND MOUSE	:	

This is a decision in reference to the paper filed on 7 August, 2006, which is treated as a renewed petition under 37 CFR 1.181 requesting that the holding of abandonment be withdrawn.

The petition is again **DISMISSED**.

This application became abandoned on 22 September, 2004, for failure to submit a proper response to the Notice to File Missing Parts of Nonprovisional Application mailed on 21 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. Petitioner was advised of the abandonment of the application in the Decision on Petition to Make Special Under 37 CFR 1.102(c)(1) mailed on 21 February, 2006. The petition to withdraw the holding of abandonment filed on 27 March, 2006, was dismissed on 19 June, 2006.

Petitioner requests that that the holding of abandonment should be withdrawn because petitioner believed that the mailroom supervisor had assured him that his response, although untimely, would be accepted.

Petitioner's argument has been considered but is not persuasive. As stated in the previous decision, the application was properly held abandoned.

Additionally, petitioner is reminded that oral advice from Office employees may not be relied upon. 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.[1]

Further, as MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the 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).

With regard to petitioner's assertion that he is unfamiliar with the laws and rules regarding practice before the USPTO, while this is unfortunate, it does not merit withdrawal of the holding of abandonment. Petitioner should consider obtaining the services of a registered patent attorney or agent.

As such, the showing of record is insufficient to withdraw the holding of abandonment.

Petitioner is strongly encouraged to consider filing a petition to revive under 37 CFR 1.137(b).

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

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

[1] See 37 CFR 1.2.

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

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

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 Dec-06

MOTI SHAI
3524 VIA DEL PRADO
CALABASAS CA 91302

COPY MAILED
DEC 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	REMAILING OF
Moti Shai	:	DECISION DISMISSING
Application No. 10/774,080	:	PETITION
Filed: 9 February, 2004	:	
For: LASER BEAM TOY AND MOUSE	:	

This is a decision in reference to the paper filed on 7 August, 2006, which is treated as a renewed petition under 37 CFR 1.181 requesting that the holding of abandonment be withdrawn.[1]

The petition is again **DISMISSED**.

This application became abandoned on 22 September, 2004, for failure to submit a proper response to the Notice to File Missing Parts of Nonprovisional Application mailed on 21 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. Petitioner was advised of the abandonment of the application in the Decision on Petition to Make Special Under 37 CFR 1.102(c)(1) mailed on 21 February, 2006. The petition to withdraw the holding of abandonment filed on 27 March, 2006, was dismissed on 19 June, 2006.

Petitioner requests that that the holding of abandonment should be withdrawn because petitioner believed that the mailroom supervisor had assured him that his response, although untimely, would be accepted.

[1] Petitioner Moti Shai called the Office of 7 December, 2006, and stated that the decision had not been received. A review of Office records reveals that the decision mailed on 30 October, 2006, was returned to the USPTO as undeliverable because it had been mailed to an incorrect address. Further, a review of Office PALM records indicates that the correspondence address listed on the oath or declaration filed on 14 January, 2005, was not properly entered in Office records. Office PALM records have been corrected, and the decision is remailed.

Petitioner's argument has been considered but is not persuasive. As stated in the previous decision, the application was properly held abandoned.

Additionally, petitioner is reminded that oral advice from Office employees may not be relied upon. 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.[2]

Further, as MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the 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).

With regard to petitioner's assertion that he is unfamiliar with the laws and rules regarding practice before the USPTO, while this is unfortunate, it does not merit withdrawal of the holding of abandonment. Petitioner should consider obtaining the services of a registered patent attorney or agent.

As such, the showing of record is insufficient to withdraw the holding of abandonment.

Petitioner is strongly encouraged to consider filing a petition to revive under 37 CFR 1.137(b).

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

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

[2] See 37 CFR 1.2.

By hand: Customer Service Window
Mail Stop Petitions
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

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

STIENNON & STIENNON
612 W. MAIN ST., SUITE 201
P.O. BOX 1667
MADISON, WI 53701-1667

Mail Date: 04/21/2010

Applicant	: Wayne Boga	: DECISION ON REQUEST FOR
Patent Number	: 7569265	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/774,084	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1170** 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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JAN 18 2005

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JAN 18 2005
OFFICE OF THE DIRECTOR
TC 3600

Baker Botts L.L.P.
2001 Ross Avenue, Suite 600
Dallas, Texas 75201-2980

In re application of
Daniel R. Swanson
Application No. 10/774,093
Filed: February 6, 2004
For: SYSTEM AND METHOD OF USING RFID DEVICES TO ANALYZE CUSTOMER TRAFFIC PATTERNS IN ORDER TO IMPROVE A MERCHANT'S LAYOUT

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on February 6, 2004 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).

The petition fails to adequately meet requirement (B), (D) and (E) above.

With regard to condition (B) the petition has failed to include an election without traverse or a statement that applicant will elect without traverse should a restriction or election be required.

In regard to conditions (D) and (E), US 6,507,279 on page 8 of the petition is not set forth in the list of references uncovered on pages 2-4 of the petition. The article by Skrzyucki, "System's Trademark: Have a Slow Day" (item 9, page 2 of the petition) is never discussed.

For the above stated reason, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. 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.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

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

SNM/jwk: 1/10/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 29 2005

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MAR 29 2005

OFFICE OF THE DIRECTOR
TC 3600

Baker Botts, L.L.P.
2001 Ross Avenue, Suite 600
Dallas, Texas 75201-2980

In re application of :
Daniel R. Swanson :
Application No. 10/774,093 :
Filed: February 6, 2004 :
For: SYSTEM AND METHOD OF USING RFID DEVICES TO ANALYZE CUSTOMER TRAFFIC PATTERNS IN ORDER TO IMPROVE A MERCHANT'S LAYOUT

DECISION ON RENEWED PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the renewed petition filed on March 15, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The original petition of February 06, 2004 was dismissed on March 15, 2005 for failing to satisfy conditions (B), (D) and (E) above. The renewed petition satisfies the above deficiencies.

Since all of the requirements for special status under MPEP § 708.02 VIII have now been met, the petition is **GRANTED**.

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/pav: 03/24/05

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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

JUL 22 2008

In re Application of	:	
DIMAURO et al.	:	
Application No. 10/774,105	:	ON PETITION
Filed: 02/06/2004	:	
Title: D0601-700519	:	

This is in response to the petition under 37 CFR 1.137(b), filed April 17, 2008, to revive the application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within TWO (2) MONTHS from the mail date of this decision and be entitled "Renewed Petition under 37 CFR 1.137(b)." Extensions of this time period are available under 37 CFR 1.136(a). No additional fee is required for filing a renewed petition.

On July 25, 2007, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. No extensions of time were obtained under 37 CFR 1.136(a). Accordingly, the application became abandoned on October 26, 2007, for failure to submit a timely and proper response to the final Office action. A Notice of Abandonment was mailed on February 27, 2008. On April 17, 2008, petitioner submitted the present petition under 37 CFR 1.137(b), a reply in the form of an amendment, a power of attorney and change of correspondence address, a 3.73(b) Statement, and an authorization to charge the petition fee.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed;

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

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 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 § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The present petition does not satisfy requirement (1) above.

On April 17, 2008, petitioner submitted an amendment in response to the final Office action; however, the examiner found that the amendment did not place the application in condition for allowance. An Advisory Action accompanies this decision.

In a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(1) A Notice of Appeal and appeal fee;

(2) An amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;

(3) The filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or

(4) The filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

With any renewed petition, petitioner must submit a proper reply to the outstanding final Office action.

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

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

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

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

Correspondence may also be submitted via the electronic filing system of the USPTO.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Advisory Action and Notice of Acceptance of Power of Attorney

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/774,105	DIMAURO ET AL.	
	Examiner	Art Unit	
	Jacqueline F. Stephens	3761	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *111-120*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Jacqueline F Stephens/
Primary Examiner, Art Unit 3761

Continuation of 3. NOTE: Amended claim(s) 111 now includes limitations from claims 112-114. The new combination of limitations changes the scope of the dependent claims 119 and 120 and the examiner must now consider the dependent claims in reference to the new limitations and determine if applicant has support for the instantly amended claims. Because the amended claims require further consideration, the amendment will not be entered. .

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/774,105	02/06/2004	Thomas M. DiMauro	D0601-700519

CONFIRMATION NO. 9012

POA ACCEPTANCE LETTER

OC000000031109603

27777
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Date Mailed: 07/22/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/17/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/ctdonnell/

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

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/774,105	DIMAURO ET AL.	
	Examiner	Art Unit	
	Jacqueline F. Stephens	3761	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *111-120*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Jacqueline F Stephens/
Primary Examiner, Art Unit 3761

Continuation of 3. NOTE: Amended claim(s) 111 now includes limitations from claims 112-114. The new combination of limitations changes the scope of the dependent claims 119 and 120 and the examiner must now consider the dependent claims in reference to the new limitations and determine if applicant has support for the instantly amended claims. Because the amended claims require further consideration, the amendment will not be entered. .

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ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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In re Application of	:	
DIMAURO et al.	:	
Application No. 10/774,105	:	ON PETITION
Filed: 02/06/2004	:	
Attorney Docket No. D0601-700519	:	

This is in response to the renewed petition under 37 CFR 1.137(b), filed October 22, 2008, to revive the application. Petitioner obtained an extension of time for response within the first month. Thus, the renewed petition is filed timely.

The renewed petition is **GRANTED**.

On July 25, 2007, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. No extensions of time were obtained under 37 CFR 1.136(a). Accordingly, the application became abandoned on October 26, 2007, for failure to submit a timely and proper response to the final Office action. A Notice of Abandonment was mailed on February 27, 2008.

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

The USPTO finance records reveal that the Office mistakenly charged petitioner a second petition fee in the amount of $1,620.00. As no fee is required for filing the present renewed petition, the Office will refund the $1,620.00 to the Deposit Account.

This application is being referred to Technology Center AU 3761 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.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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COWAN LIEBOWITZ & LATMAN, P.C.
SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED

JAN 29 2010

OFFICE OF PETITIONS

In re Patent No. **6,974,644** :
Issue Date: December 13, 2005 :
Application No. 10/774,113 : NOTICE UNDER 37 CFR 1.28(C)
Filed: February 6, 2004 :
Attorney Docket No. **B429-064** :

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

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Robert Moll
1173 St. Charles Court
Los Altos, CA 94024

Mail Date: 08/04/2010

Applicant	: Glen C. Shepherd	: DECISION ON REQUEST FOR
Patent Number	: 7645940	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/774,115	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1010** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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FEB 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Miles William Carroll et al.	:	
Application No. 10/774,176	:	DECISION ON PETITION
Filed: February 6, 2004	:	TO WITHDRAW
Attorney Docket No. 021911000510	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 24, 2008.

The request is **APPROVED**.

A review of the file record indicates that Karen B. Dow with the firm of Townsend and Townsend and Crew, LLP: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, all the attorneys associated with customer number 20350 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor, since no assignee has properly intervened in this application. If an assignee would like to receive correspondence, or appoint counsel to do so, then compliance with 37 CFR 3.73(b) must be met. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If you would like to receive future correspondence regarding this application, then the proper power of attorney documents must be submitted.

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

A non-final rejection was mailed on January 22, 2008. Failure to timely reply will result in the abandonment of this application.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Miles William Carroll
59 Mably Grove
Wantage, Oxon
UNITED KINGDOM OX12

Marshall, Gerstein & Borun, LLP
233 South Wacker Drive
Chicago, IL 60606-6357

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/774,176	02/06/2004	Miles William Carroll	021911000510

CONFIRMATION NO. 7186

POWER OF ATTORNEY NOTICE

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000028296532

Date Mailed: 02/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/24/2008.

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

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

Test, Hurwitz & Thibeault, LLP
High Street Tower
125 High Street
Boston, MA 02110

SEP 23 2005

In re Application of:	:	
Alexandropoulos	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/774,185	:	
Filed: February 6, 2004	:	
Attorney Docket No.: **GEE-001.01**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed February 22, 2005.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Guerin & Rodriguez, LLP, was filed on March 21, 2005. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

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

Edward Westin

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

cc: Michael Rodriguez
Guerin & Rodriguez, LLP
5 Mount Royal Ave.
Marlborough, MA 01752

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Alexandria, VA 22313-1450
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DIW 07-04

DAVID R. METZGER
SONNENSCHEIN NATH & ROSENTHAL
80TH FLOOR - SEARS TOWER
233 S. WACKER DRIVE
CHICAGO IL 60606

COPY MAILED

JUL 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Hirano et al.	:	
Application No. 10/774,213	:	ON PETITION
Filed: 6 February, 2004	:	
Attorney's Docket No. 09792909-5790	:	

This is a decision on the petition filed on 28 May, 2004, requesting that the above-identified application be accorded a filing date of 6 February, 2004, with Figures 3A-3C of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 6 February, 2004.

Accordingly, on 6 May, 2004, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 6 February, 2004, but that Figures 3A-3C described in the specification appeared to have been omitted.

In response, on 28 May, 2004, the present petition and one (1) sheet of drawings containing Figures 3A-3C described in the specification was filed. Petitioners argue that the sheet of drawings containing Figures 3A-3C was filed with the other application papers on 28 May, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 02/06/04, the above-identified application number, and identifies the application by the first named inventor's name, and attorney docket number, and acknowledges receipt of, *inter alia*, "Copy of Formal Drawings (7 sheets)". Petitioners request that the application, including one (1) sheet of drawings

containing Figures 3A-3C described in the specification, be accorded a filing date of 6 February, 2004.

A review of the record reveals that no sheet of drawings containing Figures 3A-3C described in the specification has been located among the application papers received on 6 February, 2004. However, the evidence is convincing that the application papers deposited on 6 February, 2004, included seven (7) sheets of formal drawings, one of which included Figures 3A-3C described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figures 3A-3C described in the specification, is entitled to a filing date of 6 February, 2004.

The "Notice" mailed on 6 May, 2004, is vacated.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 19-3140.

The application will be processed with the copy of one (1) sheet of drawings containing Figures 3A-3C filed on 28 May, 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 6 February, 2004, using the application papers filed on that date, and the sheet of drawings containing Figures 3A-3C supplied with the present petition.

Telephone inquires should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

13 MAY 2004

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MAY 26 2004
OIPE/JCWS

John Olivio
Armstrong World Industries Inc.
2500 Columbia Avenue
Lancaster, PA 17604-3001

In re Application of	:	
STACKENWALT et al.	:	
U.S. Application No.: 10/774,233	:	DECISION ON PETITION
Filing Date: 05 February 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 0212	:	
For: CLIPPED DECORATIVE STRUCTURE	:	

This is a decision on applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally under CFR 1.137(b)" filed 05 February 2004 in the above-captioned application. The petition fee under 37 CFR 1.17(m) has been paid.

BACKGROUND

On 19 July 2002, applicant filed international application PCT/US02/22945 which claimed priority of an earlier application filed 19 July 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 19 January 2004.

On 05 February 2004, applicant filed the present petition to revive pursuant to 37 CFR 1.137(b) accompanied by a continuation application.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicant has supplied the proper reply in the form of the filing of a continuation application.

As to item (2), the petition fee has been submitted.

With regard to Item (3), applicant's statement that "entire delay in filing the 35 U.S.C. 371(c) requirement from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

CONCLUSION

Applicant's petition to revive for the purposes of continuity only is **GRANTED**.

International application PCT/US02/22945 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned.

This application is being returned to the Office of Initial Patent Examination (OIPE) for processing as an application filed under 35 U.S.C. 111(a).

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Facsimile: 703-308-6459

OIPE
FEB 05 2004
PATENT & TRADEMARK OFFICE

02-06-04

DT04 Rec'd PCT/PTO 05 FEB 2004
10/[redacted]

PTO/SB/64/PCT (06-03)
Approved for use 12/31/2003. OMB 0651-0021
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 INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 0212

First Named Inventor: Stackenwält et al.

International (PCT) Application No.: PCT/US02/22945

U.S. Application No.: (if known)

Filed: July 19, 2002

Title: Clipped Decorative Structure

Attention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.494(b) or (c) or 1.495(b) or (c) as applicable. The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.494(g) or 1.495(h).

02/12/2004 LLANDGRA 00000035 PCT/US02/22945
02 FC:1453 ~~1330.00 OP~~

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee
(2) Proper reply
(3) Terminal disclaimer with disclaimer fee which is required for all international applications having an international filing date before June 8, 1995; 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 $ 1,330.00 (37 CFR 1.17(m))

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s)) in the form of Utility Application (identify type of reply):

03/14/2004 GFREYE 00000111 10774233
02 FC:1453 1330.00 OP

☐ has been filed 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 1.14. 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 PCT, 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

[X] Since this international application has an international filing date 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.

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

February 5, 2004
Date

Signature

(717) 396-2629
Telephone Number

John M. Olivo
Typed or Printed Name

51,004
Registration Number, if applicable

Armstrong World Industries, Inc.
2500 Columbia Avenue
Address

P. O. Box 3001
Lancaster, PA 17604-3001
Address

Enclosures: [ ] Response

[X] Fee Payment

[X] Terminal Disclaimer

[X] Utility Application

DT18 Rec'd PCT/PTO 05 FEB 2004

TRANSMITTAL LETTER (General - Patent Pending)	Docket No. 0212

In Re Application Of: **Stackenwalt et al.**

10/486442

Serial No.	Filing Date	Examiner	Group Art Unit
PCT/US02/22945	July 19, 2002		

Title: **Clipped Decorative Structure**

TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith is:

Petition for Revival
Specification and Claims (16 pages)
Formal Drawings (13 sheets)
Certificate of Express Mail
Check $2,190.00 ($1,330.00 Revival Fee plus $860.00 Utility Application Fee)

in the above identified application.

- ☐ No additional fee is required.
- ☒ A check in the amount of **$2,190.00** is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. **012400** as described below.
  - ☐ Charge the amount of
  - ☒ Credit any overpayment.
  - ☒ Charge any additional fee required.

John Olivo
Signature

Dated: **February 5, 2004**

John M. Olivo
Reg. No. 51,004

I certify that this document and fee is being deposited on 2/5/04 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

April D. Fiedler
Signature of Person Mailing Correspondence

April D. Fiedler
Typed or Printed Name of Person Mailing Correspondence

cc:

P16A/REV01

10 AUG 2005

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

ARMSTRONG WORLD INDUSTRIES, INC.
LEGAL DEPARTMENT
P. O. BOX 3001
LANCASTER PA 17604-3001

In re Application of STACKENWALT et al. Application No.:10/774,234 (10/486,443) Filing Date: 05 February 2004 Attorney's Docket No.: 0112 For: CANOPY-LIKE DECORATIVE STRUCTURE	:	DECISION ON PETITION

This is in response to applicant's "Petition to Combine Files" filed in the United States Patent and Trademark Office (USPTO) on 06 May 2005.

BACKGROUND

On 19 July 2002, applicant filed international application PCT/US02/23040, which claimed priority of an earlier US application filed 19 July 2001.

On 05 February 2004, applicant filed a petition to revive the international application along with a Utility Patent Application, which was accompanied by, *inter alia*, the utility application filing fee of $770, a specification and a declaration of the inventors. The application was assigned serial no.10/486,443 and treated as a filing under 35 U.S.C. 371. Inadvertently, a second application file was created using the USPTO's Image File Wrapper (IFW) and assigned U.S. serial no. 10/774,234 to the papers filed on 05 February 2004 .

On 29 March 2004, applicant's request for revival of the international application was granted. It is noted that international application PCT/US02/23040 was revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application 10/774,234. Although applicant provided a utility application as the proper reply under 37 CFR 1.137(b), the application was incorrectly processed as a national stage application under 35 U.S.C. 371(c).

On 06 May 2005, Petitioner filed the instant Petition to Combine Files requesting that the applications be combined into one file.

DISCUSSION

The transmittal letter filed on 05 February 2004 did not identify the application as a national stage application being filed under 35 U.S.C. 371. Applicant provided a utility application as the proper reply under 37 CFR 1.137(b). Accordingly, the papers should have been treated as a filing under 35 U.S.C. 111(a). Since the original papers deposited on 05 February 2004 did not seek treatment under 35 U.S.C. 371, the application is deemed to have been filed under 35 U.S.C. 111(a). International application PCT/US02/23040 was revived for

purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application PCT/US02/23040 is now abandoned with respect to the United States in favor of the present continuing application 10/774,234.

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/774,234 and the international application (PCT/US02/23040) designating the United States were copending on 05 February 2004.

Applicant's request to combine files 10/774,234 and 10/486,443 is granted. All papers will be filed in U.S. application 10/774,234. Applicant will be refunded the basic filing fee of $730 paid in application 10/486,443 to applicant's deposit account.

CONCLUSION

The specification and claims filed on 05 February 2004 met the requirements for granting a filing date for a filing under 35 U.S.C. 111(a) of 05 February 2004.

The petition to combine files is **GRANTED**. The application will be forwarded to OIPE for further processing, that is, for the transfer of all papers in U. S. application 10/486,443 into U.S. application 10/774,234. The basic filing fee of $730 will be refunded to applicant's deposit account.

Applicant is advised to reference U.S. serial no. 10/774,234 in all future correspondence regarding this application.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

CMK/RRC:cmk

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

06 AUG 2004

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P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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Armstrong World Industries, Inc.
P.O. Box 3001
Lancaster PA 17604

In re Application of	:	DECISION ON
Stackenwalt et al.	:	
Application No.: 10/774,235	:	
Filing Date: 05 February 2004	:	PETITION UNDER
Attorney's Docket No.: 0213	:	
For: DECORATIVE STRUCTURE	:	
AND CEILING SYSTEM	:	37 CFR 1.137(b)

This is in response to "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 05 February 2004.

Applicants' petition under 37 CFR 1.137(b) filed 18 December 2002 to revive international application PCT/EP01/04089 abandoned under 35 U.S.C. 371(d) is hereby **GRANTED** as to the National stage in the United States of America as follows:

International application PCT/US02/22947 became abandoned as to the United States of America at midnight on 19 January 2004 for failure to pay the basic national fee.
The filing of the present continuing application under 35 U.S.C. 111 is accepted as the appropriate response under 37 CFR 1.137(b) (See MPEP § 711.03(c)).

International application PCT/US02/22947 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/774,235.

This application is being forward to Office Initial Patent Examination(OIPE) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

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Commissioner for Patents
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AUCTIONDINER COM ATTN, MIKE BERMAN
401 N. BRAND BLVD SUITE #750
GLENDALE, CA 91203

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MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
George Tannous	:	
Application No. 10/774,270	:	ON PETITION
Filed: February 6, 2004	:	
For: MICRO AUCTIONING	:	

This is a decision on the petition under 37 CFR 1.173(b), filed April 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed May 6, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 7, 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOSEPH HAMILTON
PERKINS COIE LLP
1620 26TH ST FLOOR SIXTH
SANTA MONICA, CA 90404

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AUG 21 2006

OFFICE OF PETITIONS

In re Application of	:	
James M. Lipton	:	
Application No. 10/774,271	:	DECISION ON PETITION
Filed: February 6, 2004	:	TO WITHDRAW
Attorney Docket No. 54275.8021.US01	:	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, 2006.

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

A review of the file record indicates that the power of attorney to Joseph Hamilton 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.

There is an outstanding Office action mailed March 3, 2006 that requires a reply from the applicant.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Dykema Gossett PLLC
10 S. Wacker Dr., Ste. 2300
Chicago, IL 60606

cc: Zengen Inc.
7049 Owensmouth Avenue
Suite 112
Canoga Park, CA 91303

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RAYMOND SUN
LAW OFFICES OF RAYMOND SUN
12420 WOODHALL WAY
TUSTIN CA 92782

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DEC 12 2008

In re Application of	:	
Yu ZHENG	:	
Application No. 10/774,281	:	DECISION ON PETITION
Filed: February 06, 2004	:	
Attorney Docket No. **PAT-1536-CIP**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed June 06, 2007, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 07, 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).

Petitioner failed to provide an amendment that *prima facie* places the application in condition for allowance. (See attached courtesy copy of examiner's advisory action.)

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

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

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

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Please see attached PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/774,281	Applicant(s) ZHENG, YU	
	Examiner Jerome W. Donnelly	Art Unit 3764	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 2/14/07 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: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: generally cylindrical is a new issue
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

JEROME DONNELLY
PRIMARY EXAMINER

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RAYMOND SUN
LAW OFFICES OF RAYMOND SUN
12420 WOODHALL WAY
TUSTIN CA 92782

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APR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Yu ZHENG	:	
Application No. 10/774,281	:	DECISION ON PETITION
Filed: February 06, 2004	:	
Attorney Docket No. **PAT-1536-CIP**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 02, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed June 06, 2007, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 07, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the office action under Ex parte Quayle of June 06, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3764 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

06/06/07

This application is in condition for allowance except for the following formal matters:

In claim 5, "tunnel-like" is indefinite.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

The "coiled loop" has no antecedent basis in the claims.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Jerome Donnelly

JEROME DONNELLY
PRIMARY EXAMINER

2/19/08

IN THE CLAIMS:

1-4. (Canceled).

5. (Currently Amended) A structure comprising:

a coiled wire supporting a covering which is attached to the wire to define an interior [[tunnel-like]] generally cylindrical passageway, the coiled loop and the covering having a first end and a second end;

an electronic device attached to the covering;

a sleeve that is attached to the covering, the sleeve retaining the wire; and

an electrical line retained inside the sleeve and coupled to the electronic device.

6. (Original) The structure of claim 5, further comprising a first tie member provided at the first end, and a second tie member provided at the second end.

7. (Original) The structure of claim 5, further including a lid hingedly coupled to the first end.

8. (Original) The structure of claim 5, further including at least one appendage attached to the covering.

9. (Canceled).

10. (Previously Presented) The structure of claim 9, further including another electronic device attached to the sleeve.

11. (Original) The structure of claim 9, further including.

12. (Original) The structure of claim 5, further including a power supply coupled to the electronic device.

13. (Original) The structure of claim 12, further including a switch coupled to the power supply and the electronic device.

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IFW

PAT-1536-CIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	Art Unit: 3764
YU ZHENG	Examiner: Jerome Donnelly
Serial No.: 10/774,281	
Filing Date: February 6, 2004	
For: Collapsible Play Structures	

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

REQUEST FOR RECONSIDERATION

In response to the Decision on Petition dated December 12, 2008, Applicant is request reconsideration on the ground that 37 CFR 1.137(b)(1) was indeed met. In this regard, the reason given by the Office of Petitions for denying Applicant's Petition is that the required reply did not place the application in condition for allowance. However, since the Response was to a non-final Quayle Action, the Advisory Action issued by the Examiner was not proper. For the above reasons, Applicant respectfully submits that the Petition has met all the requirements of 37 CFR 1.137(b), and that the Petition should be granted.

Respectfully Submitted,

Raymond Sun
Attorney for Applicant
12420 Woodhall Way
Tustin, CA 92782
Tel: 949-252-9180

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal service as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Date: December 30, 2008 By: _____
Raymond Sun

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MAY 16 2007

OFFICE OF PETITIONS

In re Application of	:
Kerwin D. Dobbs et al	:
Application No. 10/774,285	: DECISION ON PETITIONS
Filed: February 6, 2004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. UCO405USCIP	:

This is a decision on the petition, filed March 20, 2007, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to prior-filed nonprovisional Application No. 10/768,209, filed January 30, 2004, and to provisional Application No. 60/347,910, filed November 7, 2001, appearing in the amendment to the specification filed September 14, 2006.

The petition is **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 priority to 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 this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

The statement of unintentional delay pertains only to the delay in presenting the claim for benefit of priority to the above-noted provisional application. However, as a proper claim for benefit of priority was not made to nonprovisional Application No. 10/768,209 within the time period provided by 37 CFR 1.78(a)(2)(ii), the statement of unintentional delay is also being construed as including that application.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3217. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1774 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/774,285	02/06/2004	1774	1318	UC0406USCIP	21	3

CONFIRMATION NO. 8490

CORRECTED FILING RECEIPT

OC000000023878221

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Date Mailed: 05/15/2007

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)

Kerwin D. Dobbs, Wilmington, DE;
Norman Herron, Newark, DE;
Viacheslav A. Petrov, Hockessin, DE;

Power of Attorney: The patent practitioners associated with Customer Number **23906**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/768,209 01/30/2004 ABN
and is a CIP of 10/284,728 10/31/2002 PAT 7,166,368
which claims benefit of 60/347,910 11/07/2001

Foreign Applications

If Required, Foreign Filing License Granted: 05/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/774,285

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Electroluminescent platinum compounds and devices made with such compounds

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).

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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

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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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SEP 06 2007

OFFICE OF PETITIONS

In re Application of Kerwin D. Dobbs, et. al. Application No. 10/774,286 Filed: February 6, 2004 Attorney Docket No. UC0405USCIP	DECISION ON PETITIONS UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petitions under 1.78(a)(6), filed by facsimile transmission on May 29, 2007, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The 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.

Also, 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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 Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1774, 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.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/774,286	02/06/2004	1774	1072	UC0405USCIP	19	5

CONFIRMATION NO. 8498

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Date Mailed: 09/05/2007

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)

Kerwin D. Dobbs, Wilmington, DE;
Norman Herron, Newark, DE;
Viacheslav A. Petrov, Hockessin, DE;

Power of Attorney: The patent practitioners associated with Customer Number **23906**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/768,298 01/30/2004 ABN
and is a CIP of 10/366,295 02/13/2003 ABN
which is a CON of 09/879,014 06/12/2001 ABN
which claims benefit of 60/215,362 06/30/2000
and claims benefit of 60/224,273 08/10/2000

Foreign Applications

If Required, Foreign Filing License Granted: 05/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/774,286

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Electroluminescent iridium compounds with fluorinated phenylpyridine ligands, and devices made with such compounds

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.

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

Application No. 10/774,286
Docket No. UC 0405 USCIP

Patent

In the United States Patent and Trademark Office

In re Application of:
Kerwin D. Dobbs, et al.

Confirmation No.: **8498**

Application No.: 10/774,286

Group Art Unit: **1774**

Filing Date: **February 6, 2004**

Examiner: **Marie Rose Yamnitzky**

For: **Electroluminescent Iridium Compounds with Fluorinated Phenylpyridine Ligands, And Devices Made With Such Compounds**

CERTIFICATE OF FACSIMILE TRANSMISSION

DATE: May 29, 2007

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office to facsimile number 571-273-8300 on the date listed above.

John H. Lamming
Registration No. 34,857

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

Petition to Accept an Unintentionally Delayed Claim Under 35 U.S.C. § 119(e) and Authorization to Charge Surcharge to Deposit Account

Applicants hereby petition for acceptance of an unintentionally delayed claim to priority to a regular utility patent application and two provisional patent applications under 35 U.S.C. § 119(e), and in support of this petition state as follows:

1. The priority to which claim is made is to:

(a) U.S. Patent Application Serial No. 09/879,014, entitled Electroluminescent Iridium Compounds with Fluorinated Phenylpyridines, Phenylpyrimidines, and Phenylquinolines and Devices Made with Such Compounds, filed June 12, 2001, now abandoned, naming as inventors: Vladimir Grushin, Viacheslav A. Petrov and Ying Wang.

(b) U.S. Provisional Application Serial No. 60/224,273, entitled Electroluminescent Iridium Compounds with Fluorinated Phenylpyridines, Phenylpyrimidines, and Phenylquinolines and Devices Made with Such Compounds, filed on August 10, 2000, naming as inventors: Viacheslav A. Petrov, Ying Wang and Vladimir Grushin.

05/31/2007 HNGUYEN1 00000057 041928 10774286
02 FC:1454 1370.00 DA

Exhibit 1

PAGE 12/14 * RCVD AT 5/29/2007 6:02:14 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/14 * DNIS:2738300 * CSID:302 892 1026 * DURATION (mm-ss):03-06

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(c) U.S. Provisional Application Serial No. 60/215,362, entitled Electroluminescent Iridium Compounds with Fluorinated Phenylpyridines, Phenylpyrimidines, and Phenylquinolines and Devices Made with Such Compounds, filed on June 30, 2000, naming as inventors: Viacheslav A. Petrov, Ying Wang and Vladimir Grushin.

2. The entire delay between the date the priority claim was due under 37 C.F.R. § 1.78(a)(5)(ii) and the date of this Petition was unintentional.

3. The Director is hereby authorized to charge the surcharge for this Petition as required in 37 C.F.R. § 1.17(t) in the amount of $ 1,370.00 to Deposit Account No. 04-1928, E. I. du Pont de Nemours and Company.

Respectfully submitted,

John H. Lamming
Attorney for Applicants
Registration No. 34,857
Telephone: 302-992-5877
Facsimile: 302-892-1892

Date: May 29, 2007

PAGE 13/14 * RCVD AT 5/29/2007 6:02:14 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/14 * DNIS:2738300 * CSID:302 892 1026 * DURATION (mm-ss):03-06

Application No.: 10/774,286
Docket No.: UC0405USCIP

Amendment to the Specification

Please amend the first full paragraph on page 1 of the application, at lines 6-9 under the heading Cross Reference to Related Applications, as follows:

"This application is a Continuation-in-Part of U.S. Serial No. ~~Unknown (DuPont Docket No. UC0405 US NA)~~ 10/768,298, filed January 30, 2004, now abandoned, and a Continuation-In-Part of U.S. Serial No. 10/366,295, filed February 13, 2003, which is a Continuation of U.S. Serial No. 09/879,014, filed June 12, 2001, now abandoned, and which claims priority from U.S. Provisional Application No. 60/224,273, filed August 10, 2000, and U.S. Provisional Application No. 60/215,362, filed June 30, 2000."

PAGE 3/14 * RCVD AT 5/29/2007 6:02:14 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/14 * DNIS:2738300 * CSID:302 892 1026 * DURATION (mm-ss):03-06

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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.

Request for Continued Examination (RCE) Transmittal

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

Application Number	10/774286
Filing Date	February 06, 2004
First Named Inventor	Kerwin D. Dobbs, Et Al.
Art Unit	1774
Examiner Name	Marie Rose Yamnitzky
Attorney Docket Number	UC0405USCIP

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
   - a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
     - i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
     - ii. ☐ Other _____
   - b. ☑ Enclosed
     - i. ☑ Amendment/Reply
     - ii. ☐ Affidavit(s)/ Declaration(s)
     - iii. ☐ Information Disclosure Statement (IDS)
     - iv. ☑ Other Petition
2. Miscellaneous
   - a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
   - b. ☐ Other _____
3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
   - a. ☑ The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 04-1928. I have enclosed a duplicate copy of this sheet.
     - i. ☑ RCE fee required under 37 CFR 1.17(e) $ 790.00.
     - ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17) $_____. Months: ☐1 ☐2 ☐3 ☐4 ☐5
     - iii. ☐ Other _____
   - b. ☐ Check in the amount of $ _____ enclosed
   - c. ☐ Payment by credit card (Form PTO-2038 enclosed)

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

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature	J. H. Lamming	Date	May 29, 2007
Name (Print/Type)	JOHN H. LAMMING	Registration No.	34,857

CERTIFICATE OF MAILING OR TRANSMISSION

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: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature	J. H. Lamming		
Name (Print/Type)	John H. Lamming	Date	May 29, 2007

This collection of information is required by 37 CFR 1.114. 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: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

05/31/2007 NNGUYEN1 00000057 041928 10774286
01 FC:1801 790.00 DA

APPLICATION DATA SHEET

Electronic Version v14
Stylesheet Version v14.0

Title of Invention	ELECTROLUMINESCENT IRIDIUM COMPOUNDS WITH FLUORINATED PHENYLPYRIDINE LIGANDS, AND DEVICES MADE WITH SUCH COMPOUNDS

Application Type: regular, utility
Attorney Docket Number: UC0405USCIP

Correspondence address:
Customer Number: 23906 *23906*

Continuing Data:

This is a Continuation-in-part of US application number UNKNOWN, filed 2004-01-30 , now PENDING.

This is a Continuation-in-part of application number 10/366295, filed 2003-02-13 , now PENDING.

Inventors Information:

Inventor 1:

Applicant Authority Type:	Inventor
Citizenship:	US
Given Name:	KERWIN
Middle Name:	D.
Family Name:	DOBBS
City of Residence:	WILMINGTON
State of Residence:	DE
Country of Residence:	US

TITLE

ELECTROLUMINESCENT IRIDIUM COMPOUNDS WITH FLUORINATED PHENYLPYRIDINE LIGANDS, AND DEVICES MADE WITH SUCH COMPOUNDS

CROSS REFERENCE TO RELATED APPLICATIONS

This application is a Continuation-in-Part of U.S. Serial No. Unknown (DuPont Docket No. UC0405 US NA), filed January 30, 2004 and a Continuation-In-Part of U.S. Serial No. 10/366,295, filed February 13, 2003.

BACKGROUND OF THE INVENTION

Field of the Invention

This invention relates to electroluminescent complexes of iridium(III) with fluorinated phenylpyridines. It also relates to electronic devices in which the active layer includes an electroluminescent Ir(III) complex.

Description of the Related Art

Organic electronic devices that emit light, such as light-emitting diodes that make up displays, are present in many different kinds of electronic equipment. In all such devices, an organic active layer is sandwiched between two electrical contact layers. At least one of the electrical contact layers is light-transmitting so that light can pass through the electrical contact layer. The organic active layer emits light through the light-transmitting electrical contact layer upon application of electricity across the electrical contact layers.

It is well known to use organic electroluminescent compounds as the active component in light-emitting diodes. Simple organic molecules such as anthracene, thiadiazole derivatives, and coumarin derivatives are known to show electroluminescence. Semiconductive conjugated polymers have also been used as electroluminescent components, as has been disclosed in, for example, Friend et al., U.S. Patent 5,247,190, Heeger et al., U.S. Patent 5,408,109, and Nakano et al., Published European Patent Application 443 861. Complexes of 8-hydroxyquinolate with trivalent metal ions, particularly aluminum, have been extensively used as electroluminescent components, as has been disclosed in, for example, Tang et al., U.S. Patent 5,552,678.

Burrows and Thompson have reported that fac-tris(2-phenylpyridine) iridium can be used as the active component in organic light-emitting devices. (*Appl. Phys. Lett.* 1999, 75, 4.) The performance is maximized when the iridium compound is present in a host conductive

PMB150 Continuity and Foreign Priority 10774286

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Domestic Continuity

Child Application Number	Cont Code	Parent Application Number	Parent Filing Date	Parent Status	Parent Patent	IN	Seq No.
10774286	CIP	10366295	02/13/2003	ABANDONE		N	1

Before

Foreign Priority

Cntry Code	Country/Receiving Office Name	Foreign/PCT Application	Filing Date	Seq No.

(*) - Request to retrieve electronic copy of foreign priority from participating receiving offices

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OFFICE OF PETITIONS

Hollingsworth & Funk
8500 Normandale Lake Blvd., Suite 320
Minneapolis MN 55437

In re Application of	:	
Chichkov, et al.	:	
Application No.: 10/774,297	:	ON PETITION
Filed: February 6, 2004	:	
Attorney Docket No: **NOKM.086PA**	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2010, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due mailed December 3, 2009. The notice set a statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on March 10, 2010. A Notice of Abandonment was mailed March 18, 2010.

The issue fee and publication fee were received on March 22, 2010.

The application file is being directed to the Office of Data Management 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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OFFICE OF PETITIONS

In re Patent No. 7,447,253 :
Issued: November 4, 2008 :
Application No. 10/774,309 : NOTICE
Filed: February 6, 2004 :
Attorney Docket No. 18971US01 :

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 filed May 21, 2007 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of	:	
Eric Linn, et al.	:	
Application No. 10/774,310	:	ON PETITION
Filed: February 6, 2004	:	
Attorney Docket No. 022038-000200US	:	

This is a decision on the petition, filed April 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 January 30, 2006, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated January 27, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being forwarded to Technology Center AU 3724 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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GENERAL MILLS, INC.
Number One General Mills Blvd.
Minneapolis, MN 55426

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OFFICE OF PETITIONS

In re Application of
Maeve Murphy, et al.
Application No. 10/774,328
Filed: February 9, 2004
Attorney Docket No. 5485C1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2005, to revive the above-identified application.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed May 7, 2004. A Notice of Abandonment was mailed on February 8, 2005. In response, the present petition and replacement drawings were filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Initial Patent Examination (OIPE) for further consideration of the replacement drawings filed February 24, 2005.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Connolly Bove Lodge & Hutz LLP
P.O. Box 2207
Wilmington DE 19899-2207

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OFFICE OF PETITIONS

In re Application of	:	
Long et al.	:	
Application No. 10/774,329	:	DECISION DISMISSING PETITION
Filed: February 5, 2004	:	
Attorney Docket No. FRIEL-104	:	

This is a decision on the petition under 37 CFR 1.182, filed May 24, 2004, requesting that the above-identified application be accorded a filing date of February 5, 2004, with Figures 15 and 16 described in the specification as part of the original disclosure.

On February 5, 2004, applicants filed the above-identified application. On May 7, 2004, the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of February 5, 2004, and advising applicants that Figures 15 and 16 appeared to have been omitted.

In response, on May 24, 2004, applicants submitted the present petition, a postcard receipt acknowledging receipt of 6 sheets of drawings on February 5, 2004, and an authorization to charge the Deposit Account for the petition fee. Applicants stated that Figures 15 and 16 were present on filing on the sixth sheet of drawings.

Upon review of the record, one sheet of drawings containing Figures 15 and 16, deposited on February 5, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on February 5, 2004, included 6 sheets of drawings, one sheet of which was subsequently misplaced in the United States Patent and Trademark Office. Unfortunately, the present petition must be dismissed because applicants failed to submit the one sheet of drawings containing Figures 15 and 16.

Accordingly, the petition is dismissed without prejudice. Any renewed petition under 37 CFR 1.182 must be filed within TWO MONTHS of the date of this decision and be accompanied by a copy of the one sheet of drawings containing Figures 15 and 16. This period is not extendable. See 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 FAX: (703) 872-9306
Attn: Office of Petitions

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Connolly Bove Lodge & Hutz LLP
P.O. Box 2207
Wilmington DE 19899-2207

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OFFICE OF PETITIONS

In re Application of	:	
Long et al.	:	
Application No. 10/774,329	:	DECISION GRANTING PETITION
Filed: February 5, 2004	:	
Attorney Docket No. FRIEL-104	:	

This is a decision on the renewed petition under 37 CFR 1.182, filed September 14, 2004, requesting that the above-identified application be accorded a filing date of February 5, 2004, with Figures 15 and 16 described in the specification as part of the original disclosure.

On February 5, 2004, applicants filed the above-identified application. On May 7, 2004, the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of February 5, 2004, and advising applicants that Figures 15 and 16 appeared to have been omitted.

In response, on May 24, 2004, applicants submitted a petition, a postcard receipt acknowledging receipt of 6 sheets of drawings on February 5, 2004, and an authorization to charge the Deposit Account for the petition fee. Applicants stated that Figures 15 and 16 were present on filing on the sixth sheet of drawings. On September 14, 2004, applicants submitted one sheet of drawings, containing Figures 15 and 16.

Upon review of the record, the one sheet of drawings containing Figures 15 and 16, deposited on February 5, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on February 5, 2004, included 6 sheets of drawings, one sheet of which was subsequently misplaced in the United States Patent and Trademark Office.

Accordingly, the petition is granted.

The Office of Initial Patent Examination is directed **to accord the application a filing date of February 5, 2004**, using the application papers submitted on that date and Figures 15 and 16 submitted on September 14, 2004.

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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THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD, TW199
TOWSON MD 21286

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Donovan et al.	:	
Application No. 10/774,335	:	
Filed: February 6, 2004	:	
Attorney Docket No. JK-01503A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 17, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. 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)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office action mailed July 14, 2006. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on November 15, 2006. A Notice of Abandonment was mailed May 14, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(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) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item (1). The Amendment submitted to the Examiner on January 17, 2008, failed to place the above-identified application in prima facie condition for allowance. A

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

[2] See MPEP 711.03(c)(III)(C) and (D).

proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application.

The Advisory Action issued by the Examiner is enclosed.

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/774,335	DONOVAN ET AL.	
	Examiner	Art Unit	
	BOYER D. ASHLEY	3724	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: *4-10,14-21 and 28-35*.
   Claim(s) rejected: *1-3,11-13,22,25-27,36 and 39*.
   Claim(s) withdrawn from consideration: *23,24,37,38 and 43-45*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

Boyer D. Ashley
SPE
Art Unit: 3724

Continuation of 3. NOTE: the amendment to independent claims 1, 12 and 26 raises new issues that require further consideration and/or search. It should be noted that the amendment indepentent claims do not include the allowable subject matter in claims 4, 6, 14, 17, 28, and 31. It should be noted that claim 4 and 6 are the same as claims 14 and 17 or 28 and 31.

Continuation of 13. Other: It should be noted that had the amendment been entered the claim objections noted in paragraphs 4 and 5 of the final rejection appear to be overcome. Applicant's attention is directed to the advisory action mailed 4/24/07.

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THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD, TW199
TOWSON MD 21286

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APR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Donovan et al.	:	
Application No. 10/774,335	:	DECISION ON PETITION
Filed: February 6, 2004	:	
Attorney Docket No. PTG 02-83-5	:	

This is a renewed decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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 3724 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of Richard F. Hammen et al Application No. 10/774,344 Filed: February 6, 2004 Attorney Docket No. A-67690-1/RFT/469190-NEW	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed August 15, 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 reply to the Nonfinal Rejection of September 12, 2005, is accepted as having been unintentionally delayed.[1]

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

This matter is being referred to Technology Center AU 1713.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]It is noted that in the PALM INTRANET Content Information, it states that: Mail Notice of Rescinded Abandonment on August 30, 2006. However, it appears that no such paper exist.

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PARSON BEHLE & LATIMER
201 S. MAIN STREET, SUITE 1800
P.O. BOX 45898
SALT LAKE CITY, UT 84111

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JUL 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
CAO, et al.	:	
Application No. 10/774,346	:	DECISION ON PETITION
Filed: February 6, 2004	:	TO WITHDRAW
Attorney Docket No. **5125P**	:	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 and re-submitted February 8, 2007.

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

A review of the file record indicates that the power of attorney to PARSON BEHLE & LATIMER has been revoked by the assignee of the patent application on April 22, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **GEOFFREY DOBBIN**
4278 S. 6220 WEST
WEST VALLEY CITY, UT 84128-6501

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HUANG, STUART, STEPTOE
& JOHNSON
1330 CONNECTICUT AVE., NW
BOX PTO
WASHINGTON, DC 20036

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JUN 15 2007

OFFICE OF PETITIONS

In re Application of
David A. PENSAK, et al
Application No. 10/774,368
Filed: February 10, 2004
Attorney Docket No. 13951.0002

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Huang, Stuart, Steptoe & Johnson LLP has been revoked by the assignee of the patent application on April 30, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

There is an outstanding Office action mailed March 23, 2007 that requires a reply by the applicant.

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

April Wise
Petitions Examiner
Office of Petitions

cc: VI LABORATORIES, INC.
MR. JOSEPH NOONAN
130 TURNER STREET,
BLDG., 3, 7TH FLOOR
WALTHAM, MA 02453

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MAY 14 2004
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: DANIEL S. YAICH

SERIAL NO.: 10/774,390

FILED: February 10, 2004

FOR: Cannelured Frangible Cartridge and Method of Canneluring a Frangible Projectile

GROUP ART UNIT: unassigned

EXAMINER: unassigned

ATTY. REFERENCE: YAICH3001/BEU

COMMISSIONER OF PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The below identified communication(s) or document(s) is(are) submitted in the above application or proceeding:

- ☐ Declaration
- ☐ Priority Document
- ☐ Formal Drawings
- ☒ **Petition to Make Special because of Actual Infringement**
- ☒ **Check in the Amount of $130**
- ☒ **Information Disclosure Statement w/two references and PTO-1449**
- ☒ **Declaration by Application in Support of Petition to Make Special; Declaration by Attorney in Support of Petition to Make Special; Sample of Cartridge**

☒ Please debit or credit **Deposit Account Number 02-0200** for any deficiency or surplus in connection with this communication. A duplicate copy of this sheet is provided for use by the Deposit Account Branch.

☐ Small Entity Status is claimed.

☐

23364
Customer Number

BACON & THOMAS, PLLC
625 SLATERS LANE - FOURTH FLOOR
ALEXANDRIA, VIRGINIA 22314
(703) 683-0500

DATE: May 14, 2004

Respectfully submitted,

Benjamin E. Urcia
Attorney for Applicant
Registration Number: 33,805

B&T-Copy of document transmittal.wpd

OIPE JC174
MAY 14 2004
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Continuation-In-Part Application of:

Daniel S. YAICH

Serial No.: 10/774,390

Filed: February 10, 2004

Examiner: Not Yet Assigned

Art Unit: Unknown

For: CANNELURED FRANGIBLE CARTRIDGE AND METHOD OF CANNELURING A FRANGIBLE PROJECTILE

PETITION TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT

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

Sir:

Applicant hereby petitions to make this application special because of actual infringement.

Accompanying this Petition is a Declaration of Facts in Support of the Petition to Make Special because of Actual Infringement, executed by the Applicant, Daniel S. YAICH, a Supplemental Declaration by Applicant's Attorney in Support of the Petition to make Special, and an Information Disclosure Statement. The fee required by 37 CFR 1.17(i)(2) is attached.

The Declaration of Facts shows that there is an infringing product actually on the market, as demonstrated by the attached test sample of a cannelured frangible cartridge delivered to the Applicant by Sinterfire, Inc.

The Supplemental Declaration shows: (1) that a rigid comparison of the allegedly infringing product with the claims of the application has been made; (2) that, in the opinion of the undersigned, some of the claims are unquestionably infringed; (3) that the undersigned has

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caused to be made a careful and thorough search of the prior art, and (4) that the undersigned believes all of the claims in the application are allowable.

Respectfully submitted,

BENJAMIN E. URCIA
Attorney for Applicant
Registration No: 33,805

BACON & THOMAS

625 Slaters Lane-4th Fl.
Alexandria, Virginia 22314
(703) 683-0500

Date: May 14, 2004

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MAY 14 2004
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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Continuation-In-Part Application of:

Daniel S. YAICH

Serial No.: 10/774,390

Filed: February 10, 2004

Examiner: Not Yet Assigned

Art Unit: Unknown

For: CANNELURED FRANGIBLE CARTRIDGE AND METHOD OF CANNELURING A FRANGIBLE PROJECTILE

DECLARATION BY ATTORNEY IN SUPPORT OF PETITION TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT

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

Sir:

I, Benjamin E. Urcia, Registration No. 33,805, am the attorney for the Applicant in this case, and make the following declarations:

1. I have made a rigid comparison of the allegedly infringing product, referred to in the accompanying Declaration of Daniel S. YAICH, with the claims of the application.

The allegedly infringing product is a frangible projectile made of a compressed powdered material and a cannelure cut into the body, the cannelure including a generally flat base and beveled edges.

2. In my opinion, claim 4 of the application is unquestionably infringed. My analysis is as follows:

Claim 4 recites "A frangible projectile having a cannelure, comprising:

a body made of a compressed powdered material and arranged to disintegrate upon contact with an object; and

a cannelure cut into the body, wherein the cannelure includes beveled edges and a generally flat base.

As indicated in the attached declaration of the Applicant, the projectile attached hereto is a frangible test sample, made of a compressed powered material. The projectile clearly includes a cannelure with a flat base. The beveled nature of the sides of the cannelure is visible with a magnifying glass.

3. I have caused to be made a careful and thorough search of the prior art. The results of search completed on January 27, 2004 were included in an Information Disclosure Statement submitted upon filing of the application, and the results of an update search completed on May 13, 2004, are listed in an Information Disclosure Statement which accompanies this Petition and Declaration.

4. I believe that all claims in this application are allowable over the references listed and discussed in the Information Disclosure Statement.

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

Respectfully submitted,

BENJAMIN E. URCIA
Attorney for Applicant
Registration No: 33,805

BACON & THOMAS, PLLC
625 Slaters Lane-4th Fl.
Alexandria, Virginia 22314
(703) 683-0500

Date: May 14, 2004

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Continuation-In-Part Application of:

Daniel S. YAICH

Serial No.: 10/774,390

Filed: February 10, 2004

Examiner: Not Yet Assigned

Art Unit: Unknown

For: CANNELURED FRANGIBLE CARTRIDGE AND METHOD OF CANNELURING A FRANGIBLE PROJECTILE

DECLARATION BY APPLICANT IN SUPPORT OF PETITION TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT

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

Sir:

I, Daniel S. Yaich, am the inventor of the subject matter claimed in the above-identified patent application. I hereby declare the following:

1. I believe that there is an actual infringement of the invention claimed in the above-identified patent application.

2. The product I believe to be infringing is the attached frangible projectile, which was included in test sample ammunition delivered to me by Sinterfire, Inc. of Kersey, PA.

3. The attached frangible projectile includes a cannelure that appears to be cut into the projectile, and that has a flat base and a beveled edge. The projectile is made of compressed copper/tin powder, and if frangible.

4. I believe that the attached projectile is manufactured by Sinterfire, Inc. in the United States, and that it is currently on sale to U.S. customers.

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Continuation-In-Part of S.N. 08/305,294
Declaration In Support of Petition to Make Special

I hereby declare that all statements made herein of my own knowledge are true and that these statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

14 May 2004
Date

Daniel S. Yaich

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TECHNOLOGY CENTER 3600

Bacon & Thomas, PLLC
625 Slaters Lane
Fourth Floor
Alexandria, VA 22314

In re application of :
Daniel S. Yaich :
Application No. 10/774,390 :
Filed: February 10, 2004 :
For: CANNELURED FRANGIBLE CARTRIDGE AND METHOD OF CANNELURING A FRANGIBLE PROJECTILE

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed May 14, 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(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 May 14, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on May 14, 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.

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

SNM/rwg: 10/26/04

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NIXON & VANDERHYE P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of
Benjamin Arnette LaGrange et al.
Application No. 10/774,400
Filed: February 10, 2004
Attorney Docket Number: **839-1383**

ON PETITION

This is a decision on the petition filed February 5, 2009, under 37 CFR 1.181, to withdraw the holding of abandonment and in the alternative, under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file a proper appeal brief within the time period provided. A Notice of Appeal was filed December 6, 2007. On February 5, 2008 an appeal brief was filed. On February 20, 2008, however, a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed. A replacement appeal brief was filed March 6, 2008 and a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was again mailed on May 8, 2008. A second

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

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

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

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

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

replacement appeal brief was filed June 6, 2008 and a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was again mailed on August 13, 2008. After the filing of yet another replacement appeal brief on September 12, 2008 a Communication Re: Appeal was mailed December 5, 2008 advising that the Appeal is Dismissed because "the corrected Appeal Brief filed September 12, 2008 did not overcome all of the reasons (pertaininq to box 4 and box 10, item 4 on the Notice of Non-Compliant Appeal Brief dated Auqust 13, 2008) for noncompliance of which the Appellant was notified. MPEP 1205.02." Thus, since there were no allowed claims the application became abandoned.

Petitioner argues that the abandonment was erroneous in that they fully complied with the Examiner's requirement and that the abandonment was premature since extensions could have been requested.

The Notice of Defective Appeal Brief mailed August 13, 2008 set a one-month period for reply that was extendable under 37 CFR 1.136. Applicant had until February 13, 2009 in which to file the corrected brief. Applicant filed what they thought was a "corrected" appeal brief on September 12, 2008. The examiner of record however disagreed. Since the appeal was dismissed with no claims allowable, the case was properly abandoned. See also MPEP 1215.04. See also 37 CFR 41.37 (d) which states: (d) If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.

With respect to the petition to revive, the petition fee in the amount of $1620.00 has been charged to deposit account no. 14-1140.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to Technology Center 3745 for review of the Amended Appeal Brief filed February 5, 2009.

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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BAKER & HOSTETLER LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
WASHINGTON, DC 20036

In re Application of Stahl et al. :
Application No. 10/774,410 : Decision on Petition
Filing Date: February 10, 2004 :
Attorney Docket No. 87333.2462 :

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

The petition is **granted.**

A non-final Office action was mailed December 14, 2005.

The non-final Office action set a shortened statutory period for reply of three (3) months.

A reply and request for a two-month extension of time were filed April 21, 2006. Unfortunately, the reply incorrectly listed the application number as 10/744,410. As a result, the reply was not matched with the file for the instant application.

A Notice of Abandonment was mailed July 11, 2006.

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

(1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.
(2) The papers contained sufficient information for the Office to determine the correct application number.

The papers filed April 21, 2006, included information such as the correct attorney docket number, filing date, title, and the first inventor's name. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The extension of time fee applied to the wrong application has been appropriately applied and credited to the instant application.

Technology Center Art Unit 2876 will be informed of the instant decision and the examiner will consider the merits of the papers filed April 21, 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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COMMISSIONER FOR PATENT
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July 12, 2004

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

In re Application of:	:	
YANG, PETER S.	:	
Application No. 10/774,434	:	DECISION ON PETITION
Filed: February 10, 2004	:	TO MAKE SPECIAL
For: ONE PIECE CLEAR PLASTIC CARDHOLDER, CARDHOLDER SHAPED FRESNEL MAGNIFYING LENS AND METHOD OF MAKING THE SAME	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed February 10, 2004 and supplemented on July 01, 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 Mr. Yang's passport as a showing that applicant is sixty-five (65) years of age or more.

Accordingly, the petition is granted.

The application is being forwarded to the examiner for expedited prosecution.

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.

The petition is granted to the extent indicated.

Inquires regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/21/08

Paper No.: —

TO SPE OF : ART UNIT 1755

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/774448 Patent No: 6858075B1

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

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

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

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

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

/J.A. Lorengo/ SPE — **SPE**

1793 — **Art Unit**

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

PAGE 2/2 * RCVD AT 1/11/2010 11:48:24 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-4/0 * DNIS:2709892 * CSID:USPTO * DURATION (mm-ss):00-00

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

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

COPY MAILED
JUN 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Hidetoshi Nobumoto et al	:	
Application No. 10/774,455	:	ON PETITION
Filed: February 10, 2004	:	
Attorney Docket No. 742425-26	:	

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 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 3681 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
APR 15 2005
Technology Center 2100

In re Application of: KAIYA et al.
Application No. 10/774,470
Filed: February 10, 2004
For: EXTERNAL STORAGE AND DATA RECOVERY METHOD FOR EXTERNAL STORAGE AS WELL AS PROGRAM

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 27, 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.

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

4/8/05

JC

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.
10/774,485	02/10/2004	Zenichiro Mashiki	10517/213	8907

23838 7590 08/29/2006

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

EXAMINER
MILLER, CARL STUART

ART UNIT	PAPER NUMBER
3747	

DATE MAILED: 08/29/2006

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **12/8/2005**

TO SPE OF : ART UNIT **3700(3747)**

SUBJECT : Request for Certificate of Correction on Patent No.: **6,925,987**

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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

Okay for dependency change as requested in C of C?

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

- [X] **Approved** — **All** changes apply. C.A.M. 8/12/06
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

_____ **SPE** _____ **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060927

DATE : September 27, 2006

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction on Patent No.: 7,022,555

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: Carl W. Whitehead, Jr. **Art Unit** 2813

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,022,555

APPLICATION NO. : 10/774,515

ISSUE DATE : April 4, 2006

INVENTORS : John T. Moore et al.

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

In the U.S. Patents portion of the References Cited section, add the following two patents:

4,673,957	6/1987	Ovshinsky et al.
5,335,219	8/1994	Ovshinsky et al.

In the Other Publications portion of the References Cited section, add the following applications:

U.S. Appl. No. 09/779,983, filed Feb. 2001, Moore.

U.S. Appl. No. 09/943,190, filed Aug. 2001, Campbell, et al.

U.S. Appl. No. 09/943,199, filed Aug. 2001, Campbell, et al.

U.S. Appl. No. 09/943,187, filed Aug. 2001, Campbell, et al.

U.S. Appl. No. 10/077,867, filed Feb. 2002, Campbell, et al.

U.S. Appl. No. 10/232,757, filed Aug. 2002, Li, et al.

Also in Other Publications, on page 7, delete the following:

U.S. Appl. No. 5,238,862, filed Aug. 1993, Blalock et al.

U.S. Appl. No. 5,360,981, filed Nov. 1994, Owen, et al.

U.S. Appl. No. 5,761,115, filed Jun. 1998, Kozicki, et al.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Thomas J. D'Amico
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403

U.S. Appl. No. 5,896,312, filed Apr. 1999, Kozicki et al.

U.S. Appl. No. 5,914,893, filed Jun. 1999, Kozicki et al.

U.S. Appl. No. 6,084,796, filed Jul. 2000, Kozicki et al.

In the Specification, the following error is corrected:

Column 2, line 16, "metal is ion" should read --metal ion--.

In Other Publications, the following typographical errors are corrected:

"Titus, S.S.K.; Chatterjee, R.; Asokan, S., Electrical switching and short-range order in As-Te glasses, Phys. Rev. B 48 (1992) 14650-14652."

Should read

--Titus, S.S.K.; Chatterjee, R.; Asokan, S., Electrical switching and short-range order in As-Te glasses, Phys. Rev. B 48 (1993) 14650-14652.--;

"Hirose, et al., "Polarity-dependent memory switching and behavior of Ag dendrite in Ag-photodoped amorphous As_2S_3 films". Journal of Applied Physics, vol. 47, No. 6, Jun. 1976, pp. 278-2772."

Should read

--Hirose, et al., "Polarity-dependent memory switching and behavior of Ag dendrite in Ag-photodoped amorphous As_2S_3 films". Journal of Applied Physics, vol. 47, No. 6, Jun. 1976, pp. 2767-2772.--.

In Other Publications, Applicants made the following typographical errors to be corrected:

"Tranchant, S.; Peytavin, S.; Ribes, M.; Flank, A.M.; Dexpert, H.; Lagarde, J.P., Silver chalcogenide glasses Ag-Ge-Se: Ionic conduction and exafs structural investigation, Transport-structure relations in fast ion and mixed conductors Proceedings of the 6th Riso International symposium. Sep. 9-13, 1985."

Should read

--Tranchant, S.; Peytavin, S.; Ribes, M.; Flank, A.M.; Dexpert, H.; Lagarde, J.P., Silver chalcogenide glasses Ag-Ge-Se: Ionic conduction and EXAFS structural investigation, Transport-structure relations in fast ion and mixed conductors, Proc. of the 6th RISO Int'l Symp. Sep. 9-13, 1985.--;

"Kotkata, M.F.; Afif, M.A.; Labib, H.H.; Hegab, N.A.; Abdel-Aziz, M.M., Memory switching in amorphous GeSeTl chalcogenide semiconductor films, Thin Solid Films 240 (1994) 143-146."

Should read

--Kotkata, M.F.; Afifi, M.A.; Labib, H.H.; Hegab, N.A.; Abdel-Aziz, M.M., Memory switching in amorphous GeSeTl chalcogenide semiconductor films, Thin Solid Films 240 (1994) 143-146.--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Thomas J. D'Amico
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403

AUG 29 2006

OIPE IAP48
AUG 24 2006
PATENT & TRADEMARK OFFICE

Docket No.: M4065.0697/P697-A
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
John T. Moore et al.

Patent No.: 7,022,555

Issued: April 4, 2006

For: METHODS OF FORMING A SEMICONDUCTOR MEMORY DEVICE

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 C.F.R. §§1.322 & 1.323

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Upon reviewing the above-identified patent, Patentees noted typographical and other errors which should be corrected.

In the U.S. Patents portion of the References Cited section, the PTO omitted the following two patents from the IDS dated July 15, 2004 (attached as ExhibitA, Page 1), which should be added:

4,673,957	6/1987	Ovshinsky et al.
5,335,219	8/1994	Ovshinsky et al.

08/25/2006 TBESHAH1 00000089 7022555
01 FC:1811 100.00 OP

AUG 29 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 16 2005

OFFICE OF PETITIONS

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

In re Application of	:
Lin, et al.	: DECISION REFUSING STATUS
Application No. 10/774,521	: UNDER 37 CFR 1.47(a)
Filed: February 9, 2004	:
Dkt.: 24061.126 (TSMC2003-0828	:
For: METHOD FOR NEGOTIATIONS	:
USING A GLOBAL PRICING SYSTEM	:

This decision is in response to the petition under 37 CFR 1.47(a), filed March 14, 2005.

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 legal representative of the deceased 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 February 9, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed August 9, 2004 requiring an executed oath or declaration and a surcharge.

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

The instant petition lacks requirements (1) and (2) set forth above.

As to item (1) set forth above, petitioners state "after a diligent effort, the inventors, Grace Shung Shin Lin and Pen Hseng Lin, refuses to sign or cannot be reached."

Petitioners have failed to establish that the non-signing inventors cannot be located or that diligent effort has been exerted to locate the non-signing inventors. Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers.

Petitioners have set forth no details of any efforts that have been made to locate either inventor. However, a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database revealed that Grace Shung Shin Lin more recently resided at 7317 Holly Hill Dr. Apt. 1215, Dallas, TX 75231. As to inventor Peng Hseng Lin, petitioners have provided no information regarding attempts to reach the inventor.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventors cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, etc. should be undertaken in regions where it is suspected the non-signing inventors may reside. Petitioners should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

As to item (4), the petition fails to set forth the last known address of Peng Hseng Lin.

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

Telephone inquiries concerning this matter 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

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of	:
Lin, et al.	: DECISION NOTING JOINDER
Application No. 10/774,521	: OF INVENTOR AND PETITION
Filed: February 9, 2004	:
Dkt.: 24061.126 (TSMC2003-0828	:
For: METHOD FOR NEGOTIATIONS	:
USING A GLOBAL PRICING SYSTEM	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed August 19, 2005.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 2 7 2005

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

In re Application of: YASUYUKI KATAKURA ET AL Serial No.: 10/774,534 Filed: 10 February 2004 Title: STORAGE APPARATUS AND SHIELDING METHOD FOR STORAGE APPARATUS	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the petition filed on April 19, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that a pre-examination search was made, including the search areas; c) a statement that all claims are directed towards a single invention, and an intent to elect without traverse should election be required; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of each of a number of references submitted as being pertinent to patentability, pointing out how the claimed subject matter is distinguishable over those references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a petition with the following showing is required: a) a petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the (non-US) references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a) – (e) are considered to have been met.

For the above-mentioned reasons, the petition is granted. The application will be advanced out of turn for examination, and will continue to be treated as special throughout the entire prosecution in the Office according to the procedure set forth in MPEP § 708.02(VIII).

The delay in considering the petition and issuance of this decision is regretted.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/774571	02/09/04	GRIFFO, ANTHONY	05516.106002

ROSENTHAL & OSHA L.L.P.
Suite 2800
1221 McKinney
Houston TX 77010

EXAMINER	
PRONE, JASON	
ART UNIT	PAPER NUMBER
3724	

DATE MAILED: 03/20/2007

NOTICE OF RESCINDED ABANDONMENT

☒ **In response to your communication filed** 2/9/07

☒ **Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.**

Nina Mottley

Manager, Publications Division
Office of Patent Publication
571-272-4200

United States
Patent And
Trademark Office

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

PETITION DECISION

06/18/04

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 10/774577 received on 05/14/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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

Reed Smith LLP
Suite 1400
3110 Fairview Park Drive
Falls Church, Virginia 22042

MAILED

JUL 0 5 2005

Technology Center 2100

In re Application of MIYAMOTO et al.	:	
Application No.: 10/774,591	:	DECISION ON PETITION
Filing Date: February 10, 2004	:	FOR ACCELERATED
For: DISK ARRAY DEVICE	:	EXAMINATION UNDER
	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed June 13, 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 June 13, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

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

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

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F56063 (JS)

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TECHNOLOGY CENTER 2600

ROBERT E. BUSHNELL
1522 K STREET NW
SUITE 300
WASHINGTON DC 20005-1202

In re Application of
Yang-Yeon Lee
Application No. 09/615,652
Filed: July 13, 2000
For: **METHOD FOR INFORMING A TRANSMITTING MODULE OF ERROR OCCURRENCE IN A RECEIVING PART OF A FACSIMILE**

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on March 31, 2005, requesting that the shortened statutory period for reply set forth in the Office communication mailed on March 22, 2005 be reset and restarted.

Petitioner states that the non-final Office action relied upon a reference, i.e., Hwang (U.S. Pat. No. 5,822,084), but that the Hwang reference was not listed on either an 892 or form 1449 submitted by applicant.

MPEP §710.06 [R-2] Situations When Reply Period Is Reset or Restarted, states in part:

> Where the citation of a reference is incorrect or an Office action contains some other defect and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. For example, if the error is brought to the attention of the Office 5 weeks after mailing the action, then the Office would set a new 2-month period for reply. The new period for reply must be at least 1 month and would run from the date the error is corrected. See MPEP § 707.05(g) for the manner of correcting the record where there has been an erroneous citation.

37 C.F.R. § 1.104 Nature of examination, states in part:

(a) Examiner's action ...

> (2) The applicant, or in the case of a reexamination proceeding, both the patent owner and the requester, will be notified of the examiner's action. The reasons for any adverse action or any objection or requirement will be stated in an Office action <u>and such information or references will be given as may be</u>

> useful in aiding the applicant, or in the case of a reexamination proceeding the patent owner, to judge the propriety of continuing the prosecution. [emphasis added]

Although current Office practice is not to provide copies of U.S. Patents or U.S. Publications with Office communications, and even though examiner did indicate the Patent No. of the Hwang reference that was being relied upon in the Office action, the examiner did not list the Hwang reference on the citation of art (i.e., form 892) which accompanied the action. Therefore, the Office action mailed March 22, 2005 was deficient.

Accordingly, the petition is **GRANTED.**

Given that the error was brought to the attention of the Office within 1 month of the mail date of the action, in accordance with MPEP §710.06, the time period will be reset and restarted with the re-mailing of the Office action.

The application record will be forwarded to the examiner to complete a supplemental Notice of References Cited, specifically listing the Hwang reference. From there, the application will be forwarded to the Technology Center's technical support staff for remailing the Office action with the supplemental Notice of References Cited prepared by the examiner.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:	
Ni, et al.	:	
Application No. 10/774,622	:	DECISION ON PETITION
Filed: February 10, 2004	:	TO WITHDRAW
Attorney Docket No. 1488.131000D	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 8, 2006.

The request is **APPROVED**.

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

The request was signed by Linda E. Horner on behalf of herself.

Applicant is reminded that all other attorneys/agents remain of record.

The correspondence address of record remains unchanged.

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

April M. Wise
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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SWANSON & BRATSCHUN LLC
1745 SHEA CENTER DRIVE
SUITE 330
HIGHLANDS RANCH, CO 80129

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DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of	:
John R. Jansen and Thomas J. Miller	:
Application No. 10/774,678	: DECISION GRANTING PETITION
Filed: February 9, 2004	: UNDER 37 CFR 1.182
Attorney Docket No. CH2M.45	:

This is a decision on the petition under 37 CFR 1.182, filed May 4, 2004, and resubmitted on December 1, 2005, to change the order of the names of the inventors in the above-identified application.

The petition is **granted**.

Office records have been corrected to reflect the desired order of inventorship. A corrected filing receipt with the desired order of inventorship accompanies this decision on petition.

The Office will print the names of the inventors in the desired order if this is possible without disrupting the printing process. However, if the printing of the patent has progressed to the point where the change cannot be effected, petitioner may then request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the $100 fee therefor.

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

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

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SEP 0 2 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Thomas Rueckes et al :
Application No. 10/774,682 :
Filed: February 9, 2004 :
Attorney Docket No. 112020.129 US2 (NAN-6)

This is a decision on the petition, filed September 1, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 8, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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GARY M. NATH
NATH & ASSOCIATES PLLC
6TH FLOOR
1030 15TH STREET, N.W.
WASHINGTON, DC 20005

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JAN 31 2005

OFFICE OF PETITIONS

In re Application of	:	
Irit Gil-Ad, et al.	:	
Application No. 10/774,694	:	ON PETITION
Filed: February 10, 2004	:	
Attorney Docket No. 25464X	:	

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

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

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

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

Retta Williams

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 03162009

DATE : May 27, 2008

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No 10/7260129 patent no7260129

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.

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

Comments: _____

MINSUN OH
PRIMARY EXAMINER

SPE

2828

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 03162009

DATE : May 27, 2008

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No 10/7260129 patent no7260129

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.

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

Comments: _____

MINSUN OH HARVEY
PRIMARY EXAMINER

SPE

2828

Art Unit

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CARY NC 27512

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OFFICE OF PETITIONS

In re Application of	:	
Ray J. Hutchinson et al	:	
Application No. 10/774,749	:	ON PETITION
Filed: February 9, 2004	:	
Attorney Docket No. 2400-756D	:	

This is a decision on the petition, filed October 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 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 2856 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).

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

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In re Application of	:	
Jerry R. Grychowski, et al.	:	
Application No. 10/774,751	:	DECISION GRANTING PETITION
Filed: February 9, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6298-449	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 4, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 6, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3772 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12-22-01

Paper No

TO SPE OF : ART UNIT 2832

SUBJECT : Request for Certificate of Correction on Patent No.: 6787716

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

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 th patent read as shown in the certificate of correction? No new matter should be introduced, nor shc the scope or meaning of the claims be changed.

Please check claims

Thank You For Your Assistance

Certificates of Correction Branc

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

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

Comments:

CORRECTION OF ~~THE~~ PRINTING ERROR.
CORRECTION MATCHES CLAIM TREE OF EXAMINER
NO NEW ~~MATTER~~, ~~SCOPE~~ MEANING NOT CHANGED

SPE

SPE-282
Art Uni

PTOL-306 (REV. 7/03)

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Gregory D. Aviza	: DECISION ON REQUEST FOR
Patent Number	: 7621203	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/774,780	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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HENRY LAW FIRM
P.O. BOX 1105
FAYETTEVILLE AR 72702

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NOV 2 0 2008

In re Application of	:	
Gregr Nathan Buchl	:	
Application No. 10/774790	:	DECISION ON
Filing or 371(c) Date: 02/10/2004	:	PETITION
Attorney Docket Number: 8090	:	

This is a decision in response to the petition to revive unavoidably abandoned application, filed October 2, 2008. The petition is properly treated under 37 CFR 1.137(a). Applicant requests alternate consideration of the petition under 37 CFR 1.137(b).

This Petition under 37 CFR 1.137(a) is hereby **dismissed**.

This Petition under 37 CFR 1.137(b) is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed February 16, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply on August 10, 2007; however, the reply required a three (3) month extension of time and fee in order to have been considered timely.

This Office mailed a Notice of Non-Compliant Amendment on September 19, 2007. The Notice stated that claim(s) 13 and 18 have the wrong status identifier and need to charge fee for extension for 3 months. The Notice set a one (1) month or 30 day period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply on January 11, 2008, and included a request to "charge the fee for a three (3) month extension to Master Card 5522-[XXXX-XXXX-XXXX], Valid Dates 11/07-11/10."

No complete and proper (timely) response having been received, the application became abandoned on May 17, 2007. A Notice of Abandonment was mailed October 1, 2008.

The present petition

Applicant files the present Petition and asserts that the Office apparently interpreted Applicant's authorization as an authorization for only one (1) of the two (2) extension fees then owing. Applicant asserts that Applicant's true intent for the fee authorization was to authorize payment of all fees due and owing for the two separate three-month extensions. In support of this assertion, Applicant files the Declaration of the inventor of the present application, Gregg N. Buchl. Applicant provides that after the response filed January 11, 2008, Applicant received no further correspondence from this Office that would have led Applicant to believe that fees remained due, and that because Applicant had no notice that fees remained due, the delay in submitting the required reply was unavoidable.

In the event that this Office determines that the delay was not unavoidable, Applicant requests alternative consideration of the petition under 37 CFR 1.137(b).

A review of office records reveals that no fee for a petition to revive the application under 37 CFR 1.137(b) has been submitted.

It is also noted that this Office has received one three (3) month extension of time fee only.

A Grantable Petition Under 37 CFR 1.137(a)

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

Applicant lacks items **(1)** and **(3)** as set forth above.

Applicable Law, Rules and MPEP

Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

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

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A

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[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

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

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

37 CFR 1.135(b) provides that

> Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. (Emphasis supplied).

Analysis

As to item **(1)**, Applicant has failed to submit the extension of time fee.

As to item **(3)**, Applicant is reminded that the use of "shall" appears in 35 USC § 133. It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991).

Here, the reply required a three (3) month extension of time and fee in order to have been considered timely. Applicant failed to provide the three (3) month extension of time fee. As such, Applicant failed to file a complete and proper reply as the condition of the application required. The application became abandoned after the six (6) month period for filing a complete and proper reply to the non-final Office action expired. The Notice of Non-Compliant Amendment incorrectly set a one (1) month period for reply. The application had, by statute, become abandoned.

Regarding Applicant's assertion that this Office apparently interpreted Applicant's authorization as an authorization for only one (1) of the two (2) extension fees then owing, and that that Applicant's true intent for the fee authorization was to authorize payment of all fees due and owing for the two separate three-month extensions, a review of the authorization reveals that Applicant intended for this Office to charge one extension of time fee. Applicant requested this Office to "charge the fee for a three (3) month extension to Master Card 5522-[XXXX-XXXX-XXXX], Valid Dates 11/07-11/10." (Emphasis supplied). Applicant explicitly referred to the singular "a" when requesting this Office charge "a" three month extension of time fee. It is also

noted that the Declaration refers to the response filed January 11, 2007, and the Declarant, inventor Gregg Buchl, Declares that he intended to authorize payment for all outstanding fees owing the Office for two separate three-month extension requests. However, a review of the authorization to charge a three month extension of time fee, filed January 11, 2008, reveals that the authorization is not executed by inventor Gregg Buchl, but by Andrew Buchl.

Authority to act in the application

A review of Office records reveals that the inventor of the present application is listed as Gregg N. Buchl; however, a review of the Amendment filed February 16, 2006, of the Amendment filed October 18, 2006, and of the Amendment filed January 11, 2008, reveals that the signature is that of Andrew F. Buchl. A review of Office records reveal that Andrew F. Buchl is not authorized to practice before this Office.

Conclusion

The petition is dismissed.

A Grantable Petition Under 37 CFR 1.137(b)

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

The petition fee

As to item (**2**), Applicant is advised that before the merits of Applicant's petition may be considered, the petition fee must be submitted.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HENRY LAW FIRM
P.O. BOX 1105
FAYETTEVILLE AR 72702

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FEB 09 2009
OFFICE OF PETITIONS

In re Application of	:	
Gregr Nathan Buchl	:	
Application No. 10/774790	:	DECISION ON
Filing or 371(c) Date: 02/10/2004	:	PETITION
Attorney Docket Number: 8090	:	

This is a decision in response to the renewed petition to revive unavoidably abandoned application, filed December 8, 2008. The petition is properly treated under 37 CFR 1.137(a). Applicant requests alternate consideration of the petition under 37 CFR 1.137(b).

This Petition under 37 CFR 1.137(b) is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed February 16, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply on August 10, 2007; however, the reply required a three (3) month extension of time and fee in order to have been considered timely.

This Office mailed a Notice of Non-Compliant Amendment on September 19, 2007. The Notice stated that claim(s) 13 and 18 have the wrong status identifier and need to charge fee for extension for 3 months. The Notice set a one (1) month or 30 day period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply on January 11, 2008, and included a request to "charge the fee for a three (3) month extension to Master Card 5522-[XXXX-XXXX-XXXX], Valid Dates 11/07-11/10."

No complete and proper (timely) response having been received, the application became abandoned on May 17, 2007. A Notice of Abandonment was mailed October 1, 2008.

Applicant filed a petition to revive based upon unavoidable delay on October 2, 2008, which was dismissed in a Decision mailed November 20, 2008, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a). Applicant also requested alternate consideration of the petition under 37 CFR 1.137(b); however, Applicant failed to submit the petition fee, and the petition was not considered on its merits.

The present renewed petition

Applicant files the present petition to revive the application under 37 CFR 1.137(b), and includes the petition fee; a reply to the Office action in the form of an Amendment; a Terminal Disclaimer and fee, and a three (3) month extension of time fee.
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.

It is noted that Applicant filed a three (3) month extension of time with the petition. Applicant is advised that an extension of time is only available to extend the period to reply to an Office action during the extendable period. Once the reply period, including the maximum extendable period, has lapsed, the application becomes abandoned (as of the day after the reply was due). No extensions of time are available.

A refund of the extension of time fee has been scheduled via Treasury Check.

It is also noted that Applicant has filed a Terminal Disclaimer and fee with the petition. Applicant is advised that a terminal disclaimer is not required as a condition for revival of an application under 37 CFR 1.137(b) in applications filed on or after June 8, 1995. See 37 CFR 1.137(d)(3).

Applicant is also advised that there a variety of printable forms available at http://www.uspto.gov/web/forms/index.html, including petition and terminal disclaimer forms.

This application is being referred to Technology Center Art Unit 3671 for processing of the Amendment filed with the petition in the normal course of business.

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

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

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

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Joseph M. Koenig JR.	: DECISION ON REQUEST FOR
Patent Number	: 7654049	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/774,798	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1289** 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

MAY 23 2007

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

Jeanne Brashear
MARSHALL, GERSTEIN & BORUN
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, ILLINOIS 60606-6357
SAN DIEGO CA 92121

In re Application of	:	
ALITALO et al.	:	
Serial No.: 10/774,802	:	Decision on Petition
Filed : February 9, 2004	:	
Attorney Docket No.: 28967/34891.1	:	

This letter is in response to the Petition under 37 C.F.R. 1.181 and 1.144 filed on March 23, 2007 requesting withdrawal of the restriction requirement.

BACKGROUND

On August 18, 2006, the examiner mailed a restriction requirement in which the original claims 43-93 were divided in 13 groups. The examiner further required applicant to elect a single inhibitor for prosecution on the merits to which the claims shall be restricted.

On October 17, 2006, Applicants elected Group X, Claims 81-84 with traverse based upon the lack of serious burden and relatedness of all groups.

On November 20, 2006, the examiner mailed to applicants a non-final Office action examining Claims 81-84 and made the requirement for restriction FINAL. Despite applicant's traversal, and identical classification for many of the groups, the examiner argues that separate classification for each group demonstrates distinct search and examination.

On March 23, 2007, applicants filed a response to the Office action and this petition to request that the Office reconsider the restriction requirement.

DISCUSSION

The petition and file history have been carefully considered.
The restriction requirement has been reconsidered. In view of reconsideration that in this particular application, it would not pose a serious burden to examine the methods of Groups 1-13 and each of the inhibitors in the same application.

DECISION

The petition is **GRANTED** for the reasons set forth above. Groups 1-9 and 12-13, drawn to claims 43-80 and 85-93, are rejoined with Group 10, claims 81-84, already under examination, and said claims will be examined together.

The application will be forwarded to the examiner for consideration of the response filed 23 March 2007 and action consistent with this decision.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600
jb/jg

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FARSHAD JASON FARHADIAN
CENTURY IP LAW GROUP
P.O. BOX 7333
NEWPORT BEACH, CA 92658-
7333

COPY MAILED
OCT 1 2 2006
OFFICE OF PETITIONS

In re Application of

Peter Fornelll :

Application No. 10/774,809

: DECISION ON PETITION

Filed: February 9, 2004

:

Attorney Docket No. 1005-7-01 USP

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 17, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on January 18, 2006. A Notice of Abandonment was mailed on May 22, 2006.

The amendment filed August 9, 2006, is noted.

The application is being forwarded to Technology Center 2600, GAU 2617 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

F. JASON FAR-HADIAN
CENTURY IP GROUP, INC.
P.O. BOX 7333
NEWPORT BEACH CA 92658-7333

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Peter Fornell	:	
Application No. 10/774,809	:	DECISION ON PETITION
Filed: February 9, 2004	:	TO WITHDRAW
Attorney Docket No. 1005-07-01 USP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 3, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

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

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

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

cc: IXI MOBILE (R&D), LTD
PO BOX 2543
17 HA 'TIDHAR ST
RA'ANANA, 43665 ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

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COOLEY GODWARD LLP
ATTN: PATENT GROUP
THE BOWEN BUILDING
875 15TH STREET, N.W. SUITE 800
WASHINGTON, DC 20005-2221

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AUG 16 2006
OFFICE OF PETITIONS

In re Application of Drake	:	
Application No. 10/774,819	:	Decision on Petition
Filing Date: February 9, 2004	:	
Attorney Docket No. DRAK-001/00US	:	

This is a decision on the petition, filed May 16, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 8, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. As a result, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

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

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

The instant petition has been found to be in compliance with the above statute and 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 23, 2006, accompanies this decision on petition.

Technology Center Art Unit 1724 will be informed the application has been revived and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/774,819	02/09/2004	Ronald Neil Drake	CBM-WTS

CONFIRMATION NO. 9231

22903
COOLEY GODWARD LLP
ATTN: PATENT GROUP
THE BOWEN BUILDING
875 15TH STREET, N.W. SUITE 800
WASHINGTON, DC 20005-2221

Date Mailed: 08/15/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/23/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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WASHINGTON DC 20005-2221

COPY MAILED
NOV 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Ronald N. Drake	:	
Application No. 10/774,819	:	DECISION ON PETITION
Filed: February 09, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. : DRAK-001/00US	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(i) & (ii), filed August 16, 2006, to make the above-identified application special based on the invention (a) materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V and (b) materially contributing to certain categories related to energy resource as set forth in M.P.E.P. § 708.02, Section VI.

The petitions are **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

The instant petition fails to show the invention meets the materiality standard. The instant invention is broadly directed to media separation. The purification of contaminated water does not in itself render the invention to be deemed materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(ii) and MPEP § 708.02, Section VI: Energy, must state that special status is sought because the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. enhances the quality of the environment by

contributing to the restoration or maintenance of basic life-sustaining natural elements. If the application disclosure is not clear on its face that the claimed invention materially contributes to category (A) or (B), the petition must be accompanied by a statement under 37 CFR 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

The instant petition fails to meet the materiality standard of 37 CFR 1.102(c)(2)(ii). Although the statements in the petition pertaining to coal bed natural gas development may be generally directed to inventions relating to the development of energy sources when the instant invention is used/applied in certain applications, the materiality standard of the rule has not been met, i.e., petitioner has failed to state how the claimed invention contributes in a significant, substantial, or noticeable manner to inventions relating to the reduction of energy consumption. The materiality standard does not permit the applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could materially contribute to category (A) or (B) as set forth above.

This lack of meeting the materiality standards of 37 CFR 1.102(c)(2) (i) and (ii) does not permit the applicant to enjoy the benefit of advanced examination.

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 Ramesh Krishnamurthy at 571-272-4914, or to the undersigned at 571-272-7099.

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

The application is being forwarded to the Technology Center Art Unit 1724 for action in its regular turn.

David Ducci
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

COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
Suite 500
1200 - 19th Street, NW
WASHINGTON, DC 20036-2402

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
DRAKE, Ronald Neil	:	
Application No. 10/774,819	:	DECISION ON PETITION
Filed: February 09, 2004	:	TO WITHDRAW
Attorney Docket No. **DRAK-001/00US**	:	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, 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 Thomas M. Croft on behalf of all attorneys of record who are associated with customer No. 22903. 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.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **RONALD NEIL DRAKE**
75 W. LINCOLN RD.
HELENA, MT 59602-9420

cc: **NEUGEBOREN LAW FIRM PC**
1035 PEARL STREET, SUITE 400
BOULDER, CO 80302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/774,819	02/09/2004	Ronald Neil Drake	DRAK-001/00US

CONFIRMATION NO. 9231

OC000000025367706

22903
COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
Suite 500
1200 - 19th Street, NW
WASHINGTON, DC 20036-2402

Date Mailed: 08/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/11/2007.

- 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.

Michelle R. Eaton

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APR 12 2005

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

In re Application of	:	
Gellman et al	:	DECISION PETITION
Serial No.: 10/774,826	:	
Filed: February 9, 2004	:	
Title: Devices for Minimally Invasive Pelvic	:	
Surgery	:	

This is in response to the petition applicant filed on September 10, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700 or by telephone at (571)272-4050 or by facsimile transmission at (703)872-9306.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Tyco Healthcare Group LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

Mail Date: 04/21/2010

Applicant	: Jonathan Martinek	: DECISION ON REQUEST FOR
Patent Number	: 7632284	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/774,828	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **533** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 13 2004

ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

In re Application of	:	
Gellman et al	:	
Serial No.: 10/774,842	:	DECISION ON PETITION
Filed: February 9, 2004	:	
For: Devices For Minimally Invasive Pelvic: Surgery	:	

This is in response to the petition applicant filed on September 13, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571)272-2975 or by facsimile transmission at (571)273-0275.

John E. Kittle

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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OCT 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Tony Peled, Avi Treves, and Oren Rosen	:	DECISION
Application No.10/774,843	:	
Filed: February 9, 2004	:	
Attorney Docket No. 24024-505	:	
Title of Invention: Expansion of Renewable Stem	:	
Cell Populations	:	
	:	
	:	

This is in response to the petition under 37 CFR 1.47(a) filed September 10, 2004.

Petitioner has shown that non-signing inventor Rosen has refused through his legal representative 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 was sent to the non-signing inventor's last known address. Petitioner has sufficiently established that non-signing refuses to execute the application papers.

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

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RONALD CRAIG FISH
P.O. BOX 820
LOS GATOS, CA 95031

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SEP 08 2005

OFFICE OF PETITIONS

In re Application of	:	
Chao-Chiang Chen	:	
Application No. 10/774,853	:	ON PETITION
Filed: February 7, 2004	:	
Attorney Docket No. SIL-001	:	

This is a decision on the petition filed July 14, 2005 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 reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed August 26, 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 October 27, 2004.

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

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of	:	
James A. Proctor, Jr.	:	
Application No. 10/774,860	:	DECISION ON PETITION
Filed: February 9, 2004	:	TO WITHDRAW
Attorney Docket No. 2479.2062-003	:	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 10, 2007.

The request is **NOT APPROVED**.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: VOLPE AND KOENING, PC
UNITED PLAZA
30 SOUTH 17TH STREET
SUITE 1600
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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NOV 26 2007

OFFICE OF PETITIONS

In re Application of	:	
James A. Proctor	:	
Application No. 10/774,860	:	DECISION ON PETITION
Filed: February 9, 2004	:	TO WITHDRAW
Attorney Docket No. 2479.2062-003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed July 19, 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 J. Thibodeau, Jr. on behalf of all attorneys of record who are associated with customer No. 21005.

All attorneys/agents associated with the Customer Number 21005 have been withdrawn.

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

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

There is an outstanding Office action mailed June 28, 2007 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JAMES A. PROCTOR, JR
440 MOSSWOOD BLVD.
INDIALANTIC, FL 32903

cc: VOLPE AND KOENIG, PC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/774,860	02/09/2004	James A. Proctor JR.	2479.2062-003

CONFIRMATION NO. 9494

POWER OF ATTORNEY NOTICE

21005
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

OC000000026800448

Date Mailed: 11/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/19/2007.

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

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/26/2010

Applicant	: James A. Proctor JR.	: DECISION ON REQUEST FOR
Patent Number	: 7586880	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/774,860	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1243** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

OIPE
NOV 2 9 2004
PATENT & TRADEMARK OFFICE

FILE COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: GRAF

Application No.: 10/774,872

Filing Date: 02/09/2004

Title: SURFACE TECHNOLOGY

Attorney Docket No.: GRA102USA

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700
2-10-05

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102

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

Dear Sir:

Applicant, through his attorney, hereby petitions the Commissioner under 37 C.F.R. 1.102 to advance the above identified application out of turn.

Grounds for this request are actual infringement. As a basis for the granting of this petition, and as required in MPEP 708.02, enclosed is a statement of Thomas M. Graf in support of the peition.

11/30/2004 EFLORES 00000042 10774872
01 FC:1464 130.00 OP

CERTIFICATE OF MAILING (IF APPLICABLE

Date of Deposit: 11-22-04. I hereby certify that this paper/fee is being deposited with the United States Postal Service as First Class Mail-Postage Prepaid, under 37 CFR 1.8, on the date indicated above, and is addressed to the Assistant Commissioner For Patents, Washington, D.C. 20231

Jessica Raska
Name

Jessica Raska
Signature

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

COPY MAILED

JUL 12 2006

OFFICE OF PETITIONS

In re Application of	:
Bernd MULLER	: DECISION ON PETITIONS
Application No. 10/774,875	: UNDER 37 CFR 1.183 AND
Filed: February 9, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P11001WOUS	:

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/08895, filed August 8, 2002, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 2831 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/774,875	02/09/2004	2831	1200	2001P11001WOUS	1	8	1

CONFIRMATION NO. 8830

CORRECTED FILING RECEIPT

OC000000019495488

46726
JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 07/06/2006

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)

Bernd Müller, Muggensturm, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP02/08895 08/08/2002

Foreign Applications

GERMANY DE 101 39 797.6 08/14/2001
If Required, Foreign Filing License Granted: 05/08/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/774,875

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

ELECTRICAL PLUG CONNECTOR

Preliminary Class

174

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

DATE : 2-10-09 Paper No.: _____

TO SPE OF : ART UNIT 2621

~~SUBJECT~~ : Request for Certificate of Correction for Appl. No.: 10/771884 Patent No.: 7400819

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

Ennis Yanb
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: _____

THAI Q. TRAN
SUPERVISORY PATENT EXAMINER
WEB 2600

SPE 2621 **Art Unit**

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Patent No. 7,427,401	:	
Lopez, et al.	:	DECISION ON
Issue Date: September 23, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 10/774,887	:	OF
Filed: February 9, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 029860-0154	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed November 12, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from one hundred ninety-one(191) days to four hundred sixty(460) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 23, 2008, the above-identified application matured into U.S. Patent No. 7,427,401 with a patent term adjustment of 191 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). This fee is required and will not be refunded. No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to *Wyeth*, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 269 days and the period of adjustment due to examination

delay, pursuant to 37 CFR §1.702(a), of 388 days do not overlap as these periods do not occur on the same day.

The 269 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on February 9, 2004, and a request for continued examination (RCE) having been filed in this application on November 5, 2007, three years and 269 days later. Patentees assert that in addition to this 269 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 388 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1). A restriction requirement was mailed on May 2, 2006, 14 months and 388 days after the application was filed on February 9, 2004.

Under 37 CFR § 1.703(f), applicants are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 197 days for applicant delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (269 days) and the period of Examination Delay (388 days) to the extent that these periods of delay are not overlapping. However, in effect, Patentees contend that no portion of the Three Year Delay period overlaps with the period of 14 month examination delay. Accordingly, Patentees submit that the total period of adjustment for Office delay is 657 days, which is the sum of the period of Three Year Delay (269 days) and the period of Examination Delay (388 days), reduced by the period of overlap (0 days).

As such, Patentees assert entitlement to a patent term adjustment of 460 days (269 + 388 reduced by 0 overlap - 197 (applicant delay)).

The Office agrees that as of the filing of the RCE on November 5, 2007, the application was pending 3 years and 269 days after its filing date. The Office agrees that the action detailed

above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 388 days is correct. At issue is whether Patentees should accrue 269 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 388 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 269 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of

delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year

application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, from February 9, 2004, as terminated by the filing of the RCE on November 5, 2007. 388 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. All of the 269 days for Office delay in issuing the patent overlap with the 388 days of Office delay. During that time, the issuance of the patent was delayed by 388 days, not 388 + 269 days. The Office took 14 months and 388 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 388 days of Office

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

delay and the 197 days of applicant delay and the time allowed within the time frames for processing and examination, as of the filing date of the RCE, the application was pending three years and 269 days. The Office did not delay 388 days and then an additional 269 days. Accordingly, 388 days of patent term adjustment (not 388 and 269 days) was properly entered since the period of delay of 269 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 388 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 388 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 269 days over three years to the filing of the RCE.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 191 days. No adjustment to the patent term will be made.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Olivia Brown f/

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

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SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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MAR 26 2010

OFFICE OF PETITIONS

In re Lopez et al.	:	DECISION ON REQUEST
Patent No. 7,427,401	:	FOR
Issue Date: September 23, 2008	:	RECONSIDERATION OF
Application No.10/774,887	:	PATENT TERM ADJUSTMENT
Filed: February 9, 2004	:	AND
Attorney Docket No. 029860-0154	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the reconsideration petition filed on November 24, 2009 and supplemented on January 21, 2010, which is collectively being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred sixty (460) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred sixty (460) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on February 10, 2007 and ends on November 4, 2007, the day before the RCE was filed, and is 268 (not 269) days. *See* 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 459, not 460 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are

given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred fifty-nine (459)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,427,401 B2

DATED : **September 23, 2008** **DRAFT**

INVENTOR(S) : Lopez et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 191 days

Delete the phrase "by 191 days" and insert – by 459 days--

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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
EXCHANGE PLACE
BOSTON, MA 02109-2881

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OFFICE OF PETITIONS

In re Application of	:	
Eugene A. Fitzgerald	:	
Application No. 10/774,890	:	ON PETITION
Filed: February 9, 2004	:	
Attorney Docket No. ASC-049C1	:	

This is a decision on the petition, filed June 24, 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 3, 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 2818 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Fish & Richardson, PC
P.O. Box 1022
Minneapolis, MN 55440-1022

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert A. Rabiner et al.	:	
Application No. 10/774,898	:	DECISION ON PETITION
Filed: February 9, 2004	:	TO WITHDRAW
Attorney Docket No. 20563/2432	:	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 20, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Sean P. Daley on behalf of all attorneys of record of record. All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the assignee. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If the attorneys associated with this firm desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Omnisonics Medical Technologies, Inc.
66 Concord Street
Wilmington, MA 01887

cc: Omnisonics Medical Technologies, Inc.
c/o John Aquino (Bankruptcy Trustee)
Anderson Aquino, LLP
240 Lewis Wharf
Boston, MA 02110

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/774,898	02/09/2004	Robert A. Rabiner	20563/2432

CONFIRMATION NO. 8765

POWER OF ATTORNEY NOTICE

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000037783998

Date Mailed: 09/14/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/20/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 21 2004

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~~OCT 13 2004~~ VOID

MICHAEL P. WILLIAMS
BOND, SCHOENECK & KING, PLLC
ONE LINCOLN CENTER
SYRACUSE, NY 13202

In re Application of	:
Jose A. O'Daly	:
Serial No.: 10/774,928	: PETITION TO MAKE SPECIAL
Filed: 27 May 2004	:
Attorney Docket No: 299 P 010	:

This is in response to applicant's petition filed 27 May, 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, section XII. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.
The Deposit Account 50-1546 will be charged the $130.00 petition fee.

Should there be any questions with regard to this letter please contact Jean F. Vollano by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0648 or by facsimile transmission to the general Office facsimile number 703-872-9306.

Jean F. Vollano

Jean F. Vollano
Special Program Examiner
Technology Center 1600

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NEW BERN NC 28562

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OCT 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Tilmann LORENZ et al.	:	DECISION ON PETITIONS
Application No. 10/774,978	:	UNDER 37 CFR 1.183 AND
Filed: February 9, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P18006WOUS	:	

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/08840, filed August 7, 2002, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1746 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/774,978	02/09/2004	1746	986	2001P18006WOUS	4	18	4

CONFIRMATION NO. 9576

CORRECTED FILING RECEIPT

OC000000020683525

46726
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 10/03/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Tilmann Lorenz, Regensburg, GERMANY;
Willibald Reitmeier, Hemau, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP02/08840 08/07/2002

Foreign Applications

GERMANY 10139388.1 08/10/2001
If Required, Foreign Filing License Granted: 05/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/774,978

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Linen treatment device with imbalance monitoring, level monitoring or load monitoring

Preliminary Class

068

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.

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of	:
Wolfgang NUIDING	: DECISION ON PETITIONS
Application No. 10/774,979	: UNDER 37 CFR 1.183 AND
Filed: February 9, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P14029WOUS	:

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/09014, filed August 12, 2002, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 3744 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/774,979	02/09/2004	3744	1100	2001P14029WOUS	2	6	2

CONFIRMATION NO. 9598

CORRECTED FILING RECEIPT

OC000000019287676

46726
JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 06/15/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Wolfgang Nuiding, Giengen, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP02/09014 08/12/2002

Foreign Applications

GERMANY 10140005.5 08/16/2001
If Required, Foreign Filing License Granted: 05/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/774,979

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Combination refrigerating appliance and evaporators for same

Preliminary Class

062

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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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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JUL 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Roland MAIER et al.	:	DECISION ON PETITIONS
Application No. 10/774,984	:	UNDER 37 CFR 1.183 AND
Filed: February 9, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P14024WOUS	:	

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/08958, filed August 9, 2002, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 3744 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/774,984	02/09/2004	3744	900	2001P14024WOUS	3	9	2

CONFIRMATION NO. 9568

CORRECTED FILING RECEIPT

OC000000019508023

46726
JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 07/06/2006

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)

Roland Maier, Neresheim, GERMANY;
Wolfgang Becker, Blaustein, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP02/08958 08/09/2002

Foreign Applications

GERMANY 10139834.4 08/14/2001
If Required, Foreign Filing License Granted: 05/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/774,984

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

REFRIGERATION DEVICE AND OPERATING METHOD FOR A REFRIGERATION DEVICE

Preliminary Class

062

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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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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GORDON & JACOBSON, P.C.
60 LONG RIDGE ROAD
SUITE 407
STAMFORD, CT 06902

Mail Date: 05/10/2010

Applicant	: Timothy M. Shanley	: DECISION ON REQUEST FOR
Patent Number	: 7649843	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/775,013	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1468** 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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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

COPY MAILED

OCT 0 4 2004

OFFICE OF PETITIONS

In re Application of	:
Song, et al.	: DECISION GRANTING
Application No. 10/775,016	: PETITION
Filed: February 9, 2004	:
Attorney Docket No. 5649-1257	:
For: FERROELECTRIC MEMORY DEVICES WITH IMPROVED FERROELECTRIC PROPERTIES AND ASSOCIATED METHODS FOR FABRICATING SUCH MEMORY DEVICES	

This is a decision on the petition under 37 CFR 1.10(c), filed September 17, 2004 (certificate of mailing date September 8, 2004), requesting that the above-identified application be accorded a filing date of February 9, 2004 rather than the presently accorded filing date of February 10, 2004.

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 February 9, 2004, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV353593034US showing no "date-in"**and** a USPS date stamp of FEB 9 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. EV353593034US was deposited with the USPS on February 9, 2004.

Accordingly, the petition is granted.

No fee has been or will be charged in connection with this petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **February 9, 2004**.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

03/19/04

James Thompson
Weingarten, Schurgin, Gagnebin, & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/775022 received on 03/08/04 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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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

2/13/09

In re Application of:
Watts, Lee et al.
Serial No. 10/775,033
Filed: February 09, 2004
Docket: 67341-1985; 03MRA0135
Title: EXHAUST PIPE VALVE

DECISION ON PETITION

This is a decision on the petition filed on July 11, 2007 requesting that the holding of abandonment be withdrawn. As such, this is being treated as a petition under 37 CFR § 1.181. It appears petitioner is further requesting, if the application is not withdrawn from abandonment, that the petition be treated as a petition to revive for either unavoidable delay under 37 CFR § 1.137 (a), or failing that for unintentional delay under 37 CFR § 1.137(b).

Initially, it is pointed out that the petition requests two different forms of relief. This is impermissible under 37 CFR § 1.4(c). This decision will only address the issues under 37 CFR § 1.181 since the resulting decision affects whether applicant should separately petition for revival under 37 CFR § 1.137 or request reconsideration under 37 CFR § 1.181. No fee is required for a petition under 37 CFR § 1.181.

The petition is granted.

Background

Applicants filed a first appeal brief on September 08, 2006. A Notice of Non-Compliant Appeal Brief was mailed December 01, 2006. The Notice stated that the brief does not contain a statement of the status of all claims and that the brief does not present an argument under a separate heading for each ground of rejection. In particular, the examiner pointed out that the status of claim 2 was missing and that a separate subheading was missing for each claim separately argued. Applicants responded with a second brief providing the status of claim 2. However, the appeal was dismissed in a letter mailed June 21, 2007. The appeal was dismissed because the new brief failed to provide subheadings for each claim argued separately. Since no claims were allowed, the application was held abandoned in the same letter. Applicants petition by way of their legal representative that the amended brief is in compliance with the regulations

or that applicants should have been afforded a chance to correct any deficiency since the attempt to correct the original brief by way of the amended brief was a bona fide attempt to comply.

Discussion and Decision

As an operation of 37 CFR § 41.37(d), an appeal will be dismissed if an amended brief does not overcome all the reasons for non-compliance within the set time period. Abandonment follows if there are no allowed claims and no time remains by way of requests for extensions of time.

A review of the amended brief indicates that the examiner's observations are indeed correct that individually argued claims in a grouping are not provided under a separate subheading. In particular, claims 6 and 14 are separately argued under heading **B**; claims 7, 10, 17, and 18 are separately argued under heading **C**; claims 19, 20, 21, and 22 are separately argued under heading **D**; and claims 23, 24, and 25 are separately argued under heading **E**; i.e., there are no subheadings under each of the respective headings **B**, **C**, **D**, and **E** identifying each of these respective, separately argued claims. It is noted that the separate arguments to each of these separate claims is clear and understood as to what is intended and for each claim without the subheadings.

37 CFR § 41.37(c)(1)(vii) states:

> (vii) Argument. The contentions of appellant with respect to each ground of rejection presented for review in paragraph (c)(1)(vi) of this section, and the basis therefor, with citations of the statutes, regulations, authorities, and parts of the record relied on. Any arguments or authorities not included in the brief or a reply brief filed pursuant to § 41.41 will be refused consideration by the Board, unless good cause is shown. Each ground of rejection **must** be treated under a separate heading. For each ground of rejection applying to two or more claims, the claims may be argued separately or as a group. When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately. Any claim argued separately **should be** placed under a subheading identifying the claim by number. Claims argued as a group should be placed under a subheading identifying the claims by number. A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim. [**Emphasis** added.]

It is clear from the wording that headings are required for each ground of rejection. This is not an issue. The original and amended briefs clearly comply with this requirement. It could be an issue for the subheadings since, as noted above, they are missing. However, from the wording of the regulation, subheadings are not an absolute requirement. The phrase "should be" provides some latitude compared with the phrase "must". Since subheadings are not needed to

differentiate arguments to each separately argued claim, omission of the subheadings is not considered essential to the understanding of the arguments. In view thereof, a requirement for these subheadings is not considered mandatory in this specific write-up of the brief(s) in the present application. In view thereof, the relief sought is granted. The letter of June 21, 2007 dismissing the appeal and abandoning the application is hereby vacated and application withdrawn from its abandoned status. In view thereof, the filing of a petition under 37 CFR § 1.137 would be moot.

PETITION GRANTED.

The application is being forwarded to the Technology Center 3700 technical support staff to place the application in a pending status to forward to the examiner for action on the amended brief.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Programs Examiner, at (571) 272-4514.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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DIRECTOR'S OFFICE
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PO BOX 12608
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In re Application of
ROBERTS, GIDEON
Application No. 10/775,036
Filed: February 9, 2004
For: **APPARATUS AND METHOD FOR MAKING MEASUREMENTS IN UNIVERSAL MOBILE TELECOMMUNICATIONS SYSTEM USER EQUIPMENT**

DECISION GRANTING PETITION
TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on August 31, 2006, requesting that the shortened statutory period for reply set forth in the Office communication mailed on April 5, 2006 be reset.

The petition is **GRANTED.**

A review of the record indicates that the Office action mailed April 5, 2006 was returned to the Patent and Trademark Office by the U.S. Postal Service as undeliverable. This returned mail is prima facie evidence of non-receipt of the Office action by applicant. Since applicant has responded to the action (apparently retrieved from the Office's PAIR system), the Office action will not be re-mailed. Applicant responded to the Office action on October 4, 2006 and included a petition and fee for three months extension.

Accordingly, the three month extension fee of $1,020.00 will be refunded to Deposit Account No. 502032.

The application was previously forwarded to the examiner for treatment of applicant's response. A Notice of Allowance was mailed October 17, 2006.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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Paper No. 12062006

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FROM DIRECTORS OFFICE

DEC 0 8 2006

TECHNOLOGY CENTER 3600

Phillip A. Girard
GIRARD & EQUITZ LLP
SUITE 110
400 MONTGOMERY STREET
SAN FRANCISCO, CA 94104

In re Application of Parker et al. Application Number 10/775,039 Filed: 2/9/2004 For: Stack conditioning apparatus and method for use in bookbinding	: : : : : :	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR § 1.313(B)(1)

The above-identified application is hereby withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR § 1.313(b)(3).

The application is hereby **withdrawn from issue**.

The issue fee is refundable upon written request. If, however, the application is subsequently found to be allowable, the issue fee can be applied, upon written request, toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. The request, and any balance due, must be received on or before the due date noted in the new Notice of Allowance and Issue Fee Due in order to prevent abandonment of the application.

The application will be forwarded to the examiner for prompt appropriate action.

Telephone inquiries should be directed to Gene O. Crawford at (571) 272-6911.

Katherine Matecki
Katherine Matecki
Director, Technology Center 3600

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Philip A. Girard
Girard & Eqitz LLP
Suite 1110
400 Montgomery Street
San Francisco, CA 94104

Paper No. 12172007

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FROM DIRECTOR'S OFFICE
DEC 3 1 2007
TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Kevin P. Parker et al. : **REGARDING REQUEST TO**
Application No. 10/775,039: **WITHDRAW CLAIM OBJECTIONS**
Filed: February 9, 2004 : **UNDER 37 CFR 1.181**

For: STACK CONDITIONING APPARATUS
AND METHOD FOR USE IN BOOKBINDING

This is in response to applicant's petition filed under 37 CFR 1.181 filed October 11, 2007 requesting withdrawal of final objection to the form of certain claims under 37 CFR 1.113 in the Office action mailed July 16, 2007.

The Petition is **GRANTED**.

Applicant alleges that the final objection of claims 27, 29, 45 and 59 mailed July 16, 2007 is improper and not in accordance with current Office practice.

MPEP 608.01(n) sets forth that although 37 CFR 1.75(c) requires the dependant claims to further limit a preceding claim, this rule does not apply to product-by-process claims.

A summary of the examiner's Office actions and of applicant's responses, with regard to the claims at issue, is as follows:

1. A first office action was mailed January 17, 2007 objecting to claims 27, 29, 45 and 59 under 37 CFR 1.75(c) as being in improper dependent form for failing to further limit the subject matter of a previous claim; and rejecting claims 27, 29, 45 and 59 under 35 USC 112 first paragraph and under 35 USC 102/103 as being anticipated by, or in the alternative, under 35 USC 103(a) as obvious over Ackley; and indicating claims 1-26, 28, 30-44 and 46-58 are allowable over the prior art of record.

2. Applicant's response filed June 15, 2007, argued the propriety of the claim objections, specifically quoting MPEP section 608.01(n), 112 rejections and prior art rejections.

3. A second, final office action was mailed July 16, 2007, repeating the objections and rejections of claims 27, 29, 45 and 59 in the nonfinal rejection mailed January 17, 2007 and further arguing the objection to the claims as being improperly dependent because they did not pass the infringement test.

4. Applicant filed a response August 2, 2007, arguing the propriety of the claim objections, specifically quoting MPEP section 608.01(n), 112 rejections and prior art rejections.

5. An Advisory Action was mailed August 27, 2007, stating the applicant had not overcome the prior art cited, nor amended the claims to satisfy the claim objections or the 112 first paragraph rejections.

6. On October 11, 2007 applicant filed a petition requesting withdrawal of the finality of the claim objections made in the final office action mailed July 17, 2007, notwithstanding the 112 first paragraph and prior art rejections .

After careful review of the above facts, the claim objections in the final office action were improper according to MPEP section 608.01(n) which excludes product by process claims from a claim objection under 37 CFR 1.75(c).

Hence applicant's petition to withdraw the claim objections in the Office action mailed July 16, 2007 is **GRANTED**.

Accordingly, the claim objection of the Office action mailed July 16, 2007, but not the action or the finality thereof, are withdrawn.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Gene O. Crawford at (571) 272-6911.

Katherine Matecki

Katherine Matecki
Director
Technology Center 3600
[/GC: 12/17/07]

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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY UT 84110

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JUL 1 4 2009

OFFICE OF PETITIONS

In re Application of
Tony M. Pearce
Application No. 10/775,043
Filed: February 7, 2004
Attorney Docket No. 5097 P

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed October 12, 2006, 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 1732 for appropriate action by the Examiner in the normal course of business on the reply received May 4, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

Applicant	: Tony M. Pearce	: DECISION ON REQUEST FOR
Patent Number	: 7666341	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/775,043	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1120** 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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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 05/17/2010

Applicant : Tony M. Pearce
Patent Number : 7666341
Issue Date : 02/23/2010
Application No : 10/775,043
Filed : 02/07/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1203** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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WITHROW & TERRANOVA
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OCT 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Ray J. Hutchinson et al	:	
Application No. 10/775,045	:	ON PETITION
Filed: February 9, 2004	:	
Attorney Docket No. 2400-756E	:	

This is a decision on the petition, filed October 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 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 2856 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.USPTO.gov

Mailed: September 24, 2004

Paper Number 092404

In re application of
Yu-Ting Shen et al.
Serial No. 10/775,066
Filed: February 11, 2004
For: METHOD OF USING HIGH TEMPERATURE PLASMA TO DISINTEGRATE WASTE CONTAINING TITANYL PHTHALOCYANINE

DECISION ON PETITION

This is a decision on the PETITION TO ACCEPT COLOR DRAWINGS OR PHOTOGRAPHS 37 C.F.R. 1.84(b)(2), filed February 11, 2004. The petition includes (1) the fee as required by 37 CFR 1.17(h), (2) three sets of the color photographs, (3) an amendment to the specification which includes the language set forth in 37 CFR 1.84(a)(2)(iv), and (4) an explanation stating why color photographs are necessary. The color photographs are for Figures 1 and 2.

A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The Petition is **GRANTED**.

Blaine R. Copenheaver, Jr.
Supervisory Patent Examiner
Technology Center 1700

Morton J. Rosenberg
Rosenberg, Klein & Lee
3458 Ellicott Center Drive
Suite 101
Ellicott City, MD 21043

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 04/21/2010

Applicant	: Kenji Sakamoto	: DECISION ON REQUEST FOR
Patent Number	: 7603298	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/775,129	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1412** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NIXON PEABODY
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of	:
Michael E. Burczynski et al	:
Application No. 10/775,169	: DECISION ON PETITION
Filed: February 11, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 31896-013000	:

This is a decision on the petition under 37 CFR 1.78(a), filed June 14, 2005, which is being treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional Application No. 60/538,246, filed January 23, 2004, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, 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 petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the above-noted, 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 above-noted, prior-filed application. In order for the instant application to be entitled to the benefit of the above-noted, 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 above-noted, prior-filed application should not be construed as meaning that applicants are entitled to the claim for benefit of priority to the above-noted, 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 above-noted, prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1634 for appropriate action on the amendment submitted June 14, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the above-noted, prior-filed provisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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ALIX YALE & RISTAS LLP
750 MAIN STREET
SUITE 1400
HARTFORD, CT 06103

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JAN 19 2010

In re Application of	:	
John V. Bernardi et al	:	
Application No. 10/775,171	:	ON PETITION
Filed: February 11, 2004	:	
Attorney Docket No. OMG/168/US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed March 11, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on June 12, 2009.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center AU 3635 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081110

DATE : November 10, 2008

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction on Patent No.: 7,189,690

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:

Petition to correct inventorship was granted.

/JON P WEBER/
Supervisory Patent Examiner.Art Unit 1657

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Hitoshi Ogino	:	
Application No. 10/775,225	:	DECISION GRANTING PETITION
Filed: February 11, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2936-0209P	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 6, 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 5, 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 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-4-2005

TO SPE OF : ART UNIT ~~2818~~ 2827

SUBJECT : Request for Certificate of Correction on Patent No.: 6,816,425 B2 10/775 231

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.

Magdalene Talley

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:

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Richard F. Jaworski
Cooper and Dunham LLP
1185 Avenue of the Americas
New York NY 10036

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APR 06 2005

OFFICE OF PETITIONS

In re Application of
Jacob Lamm et al.
Application No. 10/775,260
Filed: February 9, 2004
Attorney Docket No.: 56129861-234
Title: SYSTEM AND METHOD FOR SELF-SUPPORTING APPLICATIONS

DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition under 37 CFR §1.137(b)[1], filed January 24, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed May 6, 2004, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 7, 2004.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

---

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 the petition, Petitioner has submitted the petition fee, a declaration and the surcharge associated with the late filing of the same, and a statement which is being interpreted as the proper statement of unintentional delay.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

The Correspondence Address and Power of Attorney have been changed, pursuant to MPEP 601.03.

The application file is being forwarded to the Office of Initial Patent Examination 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

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OFFICE OF PETITIONS

AZURE INSTITUTE
INTELLECTUAL PROPERTY DEPT. -
4108 SORRENTO VALLEY BOULEVARD
SAN DIEGO CA 92124

In re Application of	:	
GUO, et al.	:	
Application No. 10/775,274	:	DECISION ON PETITION
Filed: February 10, 2004	:	TO WITHDRAW
Attorney Docket No. A0101-US0101	:	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 25, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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, "new counsel has been appointed and the file has been transferred", does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

For David Bucci
Petitions Examiner
Office of Petitions

cc: Beth Arnold
FOLEY HOAG LLP
Seaport World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2600

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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FOLEY HOAG, LLP
PATENT GROUP (W/ISA)
155 SEAPORT BLOUEVARD
BOSTON, MA 02210-2600

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OFFICE OF PETITIONS

In re Application of	:	
HUIYAN, et al.	:	
Application No. 10/775,274	:	DECISION ON PETITION
Filed: February 10, 2004	:	TO WITHDRAW
Attorney Docket No. **ISA-128.01**	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 14, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **FOLEY HOAG, LLP** has been revoked by the assignee of the patent application on April 1, 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WILSON SONSINI GOODRICH & ROSATI**
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER, LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

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SEP 02 2009

OFFICE OF PETITIONS

In re Application of	:	
Craig M. Janik	:	
Application No. 10/775,285	:	DECISION ON PETITION
Filed: February 9, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 088245-8261	:	

This is a decision on the petition under 1.78(a)(6),filed July 9, 2009, 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 Application Data Sheet (ADS).

As authorized, $1,410 for the petition under 37 CFR 1.78(a)(6) has been charged to petitioner's deposit account.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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.

Additionally, nonprovisional Application No. 09/519,007 was filed within twelve months of provisional Application No. 60/122,727, which was filed on March 4, 1999, for which priority is claimed. A reference to the prior-filed application has been included in an ADS filed on July 9, 2009.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, is enclosed with this decision.

The application is being forwarded to Technology Center Art Unit 2457 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/775,285	02/09/2004	2457	2088	088245-8261	43	12

CONFIRMATION NO. 1139

CORRECTED FILING RECEIPT

23524
FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

OC000000037530283

Date Mailed: 08/26/2009

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)

Craig M. Janik, Los Altos Hills, CA;

Power of Attorney: The patent practitioners associated with Customer Number 23524

Domestic Priority data as claimed by applicant

This application is a DIV of 09/841,268 04/24/2001 ABN
which claims benefit of 60/199,638 04/25/2000
and claims benefit of 60/268,434 02/12/2001
and is a CIP of 09/519,007 03/03/2000 ABN
which claims benefit of 60/122,727 03/04/1999

Foreign Applications

If Required, Foreign Filing License Granted: 05/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/775,285**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System for providing content, management, and interactivity for thin client devices

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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ROBERT C. KAIN, JR.
750 SOUTHEAST THIRD AVENUE
SUITE 100
FT LAUDERDALE, FL 33316-1153

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OFFICE OF PETITIONS

In re Application of	:
Tim T. Clark and Harry L. Schoell	:
Application No. 10/775,291	: DECISION ACCORDING STATUS
Filed: February 10, 2004	: UNDER 37 CFR 1.47(a)
For: INTEGRAED TRANSMISSION BELL HOUSING	:

This is a decision in response to the "Petition Under 37 CFR 1.47(a)," filed February 10, 2004.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to Initial Patent Examination Division for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to Initial Patent Examination Division 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL 19 2004

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JUL 19 2004

OFFICE OF THE DIRECTOR
TC 3600

RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, P.A.
P.O. BOX 1900
Fort Lauderdale, FL 33301

In re application of Ray Bailey Application No. 10/775,292 Filed: February 10, 2004 For: ADAPTER FOR HANGER BOLTS	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on April 28, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Bailey 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: 7/17/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

RODNEY T. HODGSON, PH.D
822 PINES BRIDGE RD.
OSSINING, NY 10562

COPY MAILED

JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
Marc David Levenson :
Application No. 10/775,312 :
Filed: February 10, 2004 :
Attorney Docket No. 903-006A :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 2005, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on July 8, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the

date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 14, 2005 was mailed April 14, 2005.

Please note, the petition fee ($750.00), issue fee ($700.00) and publication fee ($300.00) will be charged to deposit account 08-2240.

This application is being forwarded to Publications branch.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

RECEIVED
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Marc David Levenson et. al. March 8, 2005

Serial No.: 10/775312 Group No.:

Filed: February 10, 2004 Examiner:

For: Photosensitive material for immersion photolithography

Commissioner of Patents and Trademarks

Washington, D.C. 20231

PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION

The Applicant herewith petitions the Commissioner of Patents and Trademarks to revive the above identified patent application under rule 1.137(b). The entire delay in providing the required notice of recission from the due date of the notice of recission until the filing of a grantable petition pursuant to rule 1.137(b) was unintentional.

The application became abandoned on Aug. 23, 2004, when applicant failed to submit a rescission of previous nonpublication request (35 U.S.C. 122(b)(2)(b)(ii)) and Notice of foreign filing (35 U.S.C. 122(b)(2)(b)(iii)). Applicant filed a PCT application in US receiving office on July 8, 2004 (PCT/US 0422592) wherein the invention disclosed in the above identified patent application was disclosed.

A petition fee of $750 is required. Please charge deposit account number 08/2240. Any deficiency or overpayment with regard to this communication should be charged or credited to deposit account number 08/2240.

09/23/2005 KELLEY 00000007 082240 10775312
01 FC:2452 750.00 DA

PAGE 1/4 * RCVD AT 3/8/2005 3:09:50 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/5 * DNIS:8729306 * CSID:9147624126 * DURATION (mm-ss):01-26

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

24295 7590 12/14/2004

Rodney T. Hodgson, Ph.D.
822 Pines Bridge Rd.
Ossining, NY 10562

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

R HODGSON (Depositor's name)
R Hodgson (Signature)
March 8, 2005 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,312	02/10/2004	Marc David Levenson	903-006A	8512

TITLE OF INVENTION: PHOTOSENSITIVE MATERIAL FOR IMMERSION PHOTOLITHOGRAPHY

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$700	$0	$700	03/14/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
WALKE, AMANDA C	1752	430-311000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1 Rodney T. Hodgson
2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)
PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:
☒ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):
☐ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 08 2240 (enclose an extra copy of this form).

08/2240

5. Change in Entity Status (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature R Hodgson Date March 8 2005
Typed or printed name R T HODGSON Registration No. 37849

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PAGE 4/4 * RCVD AT 3/8/2005 3:09:50 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/5 * DNIS:8729306 * CSID:9147624125 * DURATION (mm-ss):01-26

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW 04-05

RODNEY T. HODGSON, PH.D.
822 PINES BRIDGE RD.
OSSINING NY 10562

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APR 0 4 2005

OFFICE OF PETITIONS

In re Application of	:
Marc David Levenson	:
Application No. 10/775,313	: DECISION GRANTING PETITION
Filed: 20 February, 2004	:
Attorney Docket No. 903-006B	:

This is a decision on the petition, filed on 8 March, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 8 July, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. It is noted that petitioner filed a Request to Rescind the Nonpublication Request on 8 March, 2005. A Communication stating the projected publication date is 14 July, 2005, is enclosed with this decision.

Counsel's deposit account, No. 08-2240, has been charged the petition fee of $750.00, as authorized in the petition.

This decision is being referred to the Publishing Division for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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OFFICE OF PETITIONS

In re Application of	:	
Kiyoshi Kato, et al.	:	
Application No. 10/775,328	:	DECISION GRANTING PETITION
Filed: February 11, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7254	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 2, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 3, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2891 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUL 12 2005

FOLEY & LARDNER
SUITE 500
3000 K STREET, NW
WASHINGTON, DC 20007

In re Application of	:
Andre Jestin et al	:
Serial No.: 10/775,337	: PETITION DECISION
Filed: February 11, 2004	:
Attorney Docket No.: 042049-0110	:

This is in response to the petition under 37 CFR 1.181, filed May 3, 2005, requesting restarting of the period for reply based non-receipt of an Office action.

A review of the file history shows that the examiner mailed an Office action to applicants on January 21, 2005, setting a three month shortened statutory period for reply. The mailing of the Office action was discovered by applicants on April 29, 2005, during a routine check of Public PAIR which indicated the mailing of an Office action on January 21, 2005. Applicants state that the Office action was never received and provide a copy of docket reports to establish non-receipt thereof. In view of the evidence provided applicants' request to restart the period for reply is granted

The petition is **GRANTED**.

The three month shortened statutory period for reply to the Office action mailed January 21, 2005, is restarted as of applicants' date of receipt of the Office action via the internet, April 29, 2005.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DRW 01-05

JONATHAN Y. KANG, ESQ.
LEE, HONG, DEGERMAN, KANG & SCHMADEKA
14TH FLOOR
801 S. FIGUEROA STREET
LOS ANGELES CA 90017

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JAN 1 1 2005
OFFICE OF PETITIONS

In re Application of	:
Shi Youl Noh	:
Application No. 10/775,378	: DECISION DISMISSING
Filed: 26 November, 2004	: PETITION
Attorney Docket No. 2097-3-18	:

This is a decision on the petition filed on 26 November, 2004, which is treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of 9 February, 2004.

On 9 February, 2004, the application deposited.

On 27 September, 2004, accordingly, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that the filing date would be the date that drawings were received in compliance with 35 U.S.C. § 113 (first sentence). A two (2)-month period for reply was set.

In response, on 26 November, 2004, the present petition was filed, accompanied by a copy of three (3) sheets of drawings. Petitioner asserts that the application should be accorded a filing date of 9 February, 2004, based on a return receipt postcard showing that three (3) sheets of drawings were deposited with the original application papers.

The petition must be dismissed because no copy of petitioner's return receipt postcard showing that three (3) sheets of drawings were filed on 9 February, 2004, has been located among the papers filed with the present petition on 26 November, 2004. The petition is therefore dismissed without prejudice to reconsideration pending submission of a copy of petitioner's postcard receipt showing receipt of three (3) sheets of drawings

in the USPTO with the present application papers on 9 February, 2004.

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. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision. If no response is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 26 November, 2004, the date that the drawings were received in the USPTO.

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 Two, Lobby, Room 1B03
Arlington, VA 22202

As petitioners have not shown that this petition was necessitated by an error on the part of the Office, the fee for a petition under 37 CFR 1.53 is due. The balance of the $400.00 petition fee due will be charged to counsel's deposit account, No. 50-2290.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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SEP 03 2009

OFFICE OF PETITIONS

In re Patent No. 7,482,025	:	DECISION ON
Stephen F. Badylak	:	REQUEST FOR
Issue Date: January 27, 2009	:	RECONSIDERATION OF
Application No. 10/775,386	:	PATENT TERM ADJUSTMENT
Filed: February 10, 2004	:	
Attorney Docket No. 3220-74469	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed on March 27, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred fifty-five (555) days to one thousand eighty-two (1082) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 555 days.

BACKGROUND

This application was filed on February 10, 2004. On September 26, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 379 days[1]. On January 27, 2009, the application matured into U.S. Patent No. 7,482,025, with a revised patent term adjustment of 555 days. The Office determined that 717 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[2,3] overlaps with the 541 days of Office delay

[1] 541 days of Office delay was reduced by 162 days of applicant delay for a patent term adjustment of 379 days. No request for reconsideration of this initial determination was filed.

[2] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of

pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(2)[4,5] accorded prior to the issuance of the application. As such, 176 (717 - 541) additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 162 days, the patent issued with a revised patent term adjustment of 555 (541 + 176 - 162) days.

On March 27, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1082 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps

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the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

[3] As of the issuance of the patent on January 27, 2009, the application was pending three years and 717 days.

[4] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;
>
> (2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

[5] A first Office action (restriction requirement) was not mailed until September 19, 2006, fourteen months and 527 days after the application filing date, February 10, 2004. A notice of allowance was not mailed until September 26, 2008, four (4) months and 14 days after the filing of a reply, filed on May 12, 2008, in response to a non-final office action.

with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the 14 day period accorded pursuant to 37 CFR 1.702(a)(2) overlaps with the period under § 1.702(b). Patentee asserts that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1244 (541 + 717 - 14 overlap) days as these periods do not occur on the same day. Further, given the applicant delay of 162 days, patentee asserts entitlement to 1082 (1244 - 162) days of patent term adjustment.

OPINION

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[6] *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

---

[6] 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.

35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the

application filing date under 35 U.S.C. 111(a), February 10, 2004, and ending on the date of issuance of the patent, January 27, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(2), 541 (527 + 14) days of patent term adjustment were accorded during the pendency of the application. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 717 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 717 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 541 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 717 days and the 541 days is neither permitted nor warranted. 717 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 176 days of adjustment pursuant to 37 CFR 1.702(b) for a total of the greater period of 717 days for Office delay.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 555 days (717 days of Office delay - 162 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Christina Tartere Donnell for

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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ALEXANDRIA, VA 22313-1450
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RAMON L. PIZARRO
Suite 200
3515 SOUTH TAMARAC DRIVE
DENVER, CO 80237

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of	:
Weaver	: DECISION GRANTING PETITION
Application No. 10/775,403	: UNDER 37 CFR 1.137(b)
Filed: February 9, 2004	:
For: SEATBELT ROUTING AND	:
RESTRAINT SYSTEM	:

This decision is in response to the petition under 37 CFR 1.137(b), filed July 29, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned July 12, 2005 for failure to timely submit a proper reply to the Notice of Allowance and Issue Fee Due (Notice) mailed April 11, 2005. The Notice set a three month statutory period of time for reply. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) requires submission of: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice mailed April 11, 2005 is accepted as having been unintentionally delayed.

This application is being forwarded to the Publications Division for processing into a patent.

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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PFIZER INC.
10555 SCIENCE CENTER DRIVE
SAN DIEGO CA 92121

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DEC 03 2007

OFFICE OF PETITIONS

In re Application of	:	
Bruce D. Cohen et al	:	
Application No. 10/775,444	:	DECISION GRANTING PETITION
Filed: February 10, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. PC25232A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment/election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of April 4, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1643.

Karen Creasy
Petitions Examiner
Office of Petitions

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

09/08/04

James Edwards
Alston & Bird
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/775450 received on 07/29/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : August 10, 2009

Patent No. :7043518
Inventor(s) :Moshe B. Simon et al.
Issued :May 9, 2006
Title :METHOD AND SYSTEM FOR PERFORMING PARALLEL INTEGER MULTIPLY
:ACCUMULATE OPERATIONS ON PSVKRF DATA

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

EFS web uspto.gov/ebc/index.html
(must be registered as an e-filer to submit responses)
Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Thomas Schneck
Law Offices of Schneck & Shneck
P.O. Box 2-E
San Jose, Ca 958109-0005

/arg

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APR 22 2005

OFFICE OF PETITIONS

In re Application of :
Thomas Eyhorn : DECISION ON PETITION
Application No. 10/775,463 :
Filed: February 10, 2004 :
Attorney Docket No. WAS 0618 PUS/ :
Wa 10267-W :

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2004, to revive the above-identified application.

The petition is **DISMISSED.**

The petition under 37 CFR 1.137(b) will not be treated on its merits, but rather will remain in the file until the United States Patent and Trademark Office (Office) receives a renewed petition under 37 CFR 1.137(b), as well as the payment of the requisite petition fee, the amount due on the filing of the petition. The petition fee is $1,500.00. However, the Office finance records indicate that petitioner paid only $1,370.00. Accordingly, the petition fee is insufficient.

The Office notes:

> 35 U.S.C. 41(a)(7) provides that a petition for revival of an unintentionally abandoned application . . . must be accompanied by a petition fee set for in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a

petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived. MPEP 711.03(c)(III)(B).

Accordingly, the Office lacks the discretion to, and will not, address the merits of any petition seeking revival of an abandoned application in the absence of the payment of the petition fee required by statute. In this regard, this application is properly considered abandoned by operation of 35 USC § 133 for failure to prosecute.

A request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" and the difference owed of $130.00 for the petition fee.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 22 2005

OFFICE OF PETITIONS

In re Application of Thomas Eyhorn Application No. 10/775,463 Filed: February 10, 2004 Attorney Docket No. WAS 0618 PUS/ Wa 10267-W	: : : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2004, to revive the above-identified application.

The petition is **DISMISSED.**

The petition under 37 CFR 1.137(b) will not be treated on its merits, but rather will remain in the file until the United States Patent and Trademark Office (Office) receives a renewed petition under 37 CFR 1.137(b), as well as the payment of the requisite petition fee, the amount due on the filing of the petition. The petition fee is $1,500.00. However, the Office finance records indicate that petitioner paid only $1,370.00. Accordingly, the petition fee is insufficient.

The Office notes:

> 35 U.S.C. 41(a)(7) provides that a petition for revival of an unintentionally abandoned application . . . must be accompanied by a petition fee set for in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a

> petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived. MPEP 711.03(c)(III)(B).
>
> Accordingly, the Office lacks the discretion to, and will not, address the merits of any petition seeking revival of an abandoned application in the absence of the payment of the petition fee required by statute. In this regard, this application is properly considered abandoned by operation of 35 USC § 133 for failure to prosecute.

A request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" and the difference owed of $130.00 for the petition fee.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell**:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
Thomas Eyhorn : ON PETITION
Application No. 10/775,463 :
Filed: February 10, 2004 :
Attorney Docket No. WAS 0618 PUS :

This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

On June 28, 2004, petitioner expressly abandoned the above-identified application pursuant to 37 CFR 1.138. On July 20, 2004, the Office mailed a Notice of Abandonment, stating that the application was abandoned in view of the letter of express abandonment signed by an attorney of record. On December 20, 2004, petitioner filed a petition under 37 CFR 1.137(b). In a letter dated April 22, 2005, the Office stated that the petition was not treated on the merits because the petition fee was insufficient. On May 4, 2005, petitioner filed the present petition and the amount due for the petition fee.

The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, 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 § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. 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 this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The present petition does not satisfy requirement (3) above.

In the present petition, petitioner asserts that the above-identified application became abandoned unintentionally by petitioner's attorney's mistaken filing of an Express Abandonment under 37 CFR 1.138 on June 28, 2004.

The Office notes: "A delay resulting from a deliberately chosen course of action on the part of the applicant is not an 'unintentional' delay within the meaning of 37 CFR 1.137(b)." MPEP 711.03(c). Moreover, "[ ] a change in circumstances that occurred subsequent to the abandonment of an application does not render 'unintentional' the delay resulting from a previous deliberate decision to permit an application to be abandoned." Id.

Here, the only explanation petitioner has supplied in the petition is that the above-identified application became abandoned unintentionally by petitioner's attorney's mistaken filing of an Express Abandonment under 37 CFR 1.138. Petitioner has not explained how this mistake occurred or the circumstances surrounding the event. Therefore, petitioner has not made a sufficient showing that the delay was unintentional.

In any renewed petition, petitioner should include a thorough explanation as to why petitioner's attorney's mistake in filing an Express Abandonment under 37 CFR 1.138 can reasonably be considered unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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OCT 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Thomas Eyhorn :
Application No. 10/775,463 :
Filed: February 10, 2004 :
Attorney Docket No. WAS 0618 PUS :

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 5, 2005, to revive the above-identified application.

On June 28, 2004, petitioner expressly abandoned the above-identified application pursuant to 37 CFR 1.138. On July 20, 2004, the Office mailed a Notice of Abandonment, stating that the application was abandoned in view of the letter of express abandonment signed by an attorney of record. On December 20, 2004, petitioner filed a petition under 37 CFR 1.137(b). In a letter dated April 22, 2005, the Office stated that the petition was not treated on the merits because the petition fee was insufficient. On May 4, 2005, petitioner filed a petition under 37 CFR 1.137(b) and the amount due for the petition fee. On June 22, 2005, the Office dismissed the petition. In the decision, the Office advised petitioner upon filing a renewed petition, petitioner should include a thorough explanation as to why petitioner's attorney's mistake in filing an Express Abandonment could reasonably be considered unintentional.

After a careful review of the arguments presented by petitioner in the present renewed petition, the Office has determined 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. Accordingly, the petition is **granted**.

This matter is being referred to the Office of Initial Patent Examination to restore the above-identified application to pending status.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LAW OFFICE OF DAVID H. JUDSON
15950 DALLAS PARKWAY
SUITE 225
DALLAS TX 75248

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MAR 09 2010

OFFICE OF PETITIONS

In re Application of :
Meghan M. BARNI :
Application No. 10/775,466 : ON PETITION
Filed: February 10, 2004 :
Attorney Docket No. 44442.00001 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 26, 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 above-identified application became abandoned on April 27, 2009.

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 $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of January 26, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Olisa Anwah at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3624 for appropriate action on the concurrently filed amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,471	02/09/2004	William E. Sobel	20423-08314	1357

34415 7590 02/26/2009
SYMANTEC/ FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

EXAMINER
VU, TUAN A

ART UNIT	PAPER NUMBER
2193	

NOTIFICATION DATE	DELIVERY MODE
02/26/2009	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):

ptoc@fenwick.com
bhoffman@fenwick.com
aprice@fenwick.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090217

DATE : February 24, 2009

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction on Patent No.: 7,467,378

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 correction is justifiably appropriate

/ Tuan Anh Vu /
- Primary Ex - 02/17/09

/Lewis A. Bullock, Jr./
SPE, Art Unit 2193

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Alexandria, VA 22313-1450
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JAN 18 2008

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 12110

In re Application of:
Denise L. Faustman et al.
Serial No.: 10/775,487
Filed: February 10, 2004
Attorney Docket No.: 00786/457003

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed on November 13, 2007, requesting withdrawal of finality of the Office action of September 13, 2007.

BACKGROUND

More recently, the examiner mailed a non-final Office action on December 15, 2006 setting a three month shortened statutory period for reply. In this Office action, claims 76-82 were pending, claims 78, 81 and 82 were withdrawn from consideration on the merits, and claims 76, 77, 79 and 80 were examined. The examiner rejected:

1) Claim 77 under 35 USC 112, first paragraph, lacking appropriate written description,

2) Claims 76, 77, 79 and 80 under 35 USC 112, first paragraph, for lacking enablement,

3) Claims 76, 77, 79 and 80 under 35 U.S.C. § 102(b) as anticipated by Satoh et al. (US 5,560,908) as evidenced by Hsu et al. (Cell. 1996 Jan26;84(2):299-308),

4) Claims 76, 77, 79 and 80 under 35 U.S.C. § 102(e) as anticipated by Faustman, D (U.S. Patent No. 6,660,487),

5) Claims 76, 77, 79 and 80 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 9 of U.S. Patent No. 6,660,487,

6) Claims 76, 77, 79 and 80 , provisionally, on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 16-30, 65-73 and 91-108 of copending USSN 10/851,983, and

7) Claims 76, 79 and 80, provisionally, on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 41-52 and 82-90 of copending USSN 10/851,983.

In reply to the non-final Office action of December 15, 2006, applicants filed a response on June 20, 2007 which included remarks, an amendment to the specification and a Declaration filed by Inventor Denise L. Faustman. Subsequently, prior to the final Office action, Applicants filed two Information Disclosure statements; one on July 2, 2007 and one on August 24, 2007.

The examiner mailed a final Office action on September 13, 2007 setting a three month shortened statutory period for reply. In this Office action, claims 76-82 were pending, claims 78, 81 and 82 were withdrawn from consideration on the merits, and claims 76, 77, 79 and 80 were examined. In this Office action, the examiner maintained the following rejections:

1) Claims 76, 77, 79 and 80 under 35 USC 112 First paragraph for lacking enablement,

2) Claims 76, 77, 79 and 80 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 9 of U.S. Patent No. 6,660,487 and

3) Claims 76, 77, 79 and 80 , provisionally, on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 16-30, 65-73 and 91-108 of copending USSN 10/851,983.

The examiner additionally instituted a new rejection over claims 76, 77 and 80 under 35 USC 102(b) as being anticipated by Jacob et al. (Proc Natl Acad Sci USA, 1990). It is pointed out that the examiner stated "Applicant's submission of the IDS of July 7, 2007 prompted the New Grounds of Rejection set forth below" (p. 10, final Office action). This is clearly a typographical error because the Jacob et al. reference was provided within the IDS filed by Applicants on July 2, 2007. Consequently, the examiner explicitly states in the conclusion of the final Office action that "Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 73 CFR 1.17(p) on July 2, 2007 prompted the new ground(s) of rejection presented in this Office action" (see p. 12, final Office action).

In response thereto, applicants filed this petition under 37 CFR § 1.181 on November 13, 2007, requesting withdrawal of finality of the Office action of September 13, 2007.

It is pointed out that applicants footnoted, in their petition, reference to an upcoming personal interview which was, in fact, held on November 19, 2007. In attendance at this interview were Denise Faustman, Paul Clark, Todd Armstrong, and examiners Michail Belyavskyi and Zachary Skelding. At this interview, the enablement and art rejections were discussed and the examiner explained his positions. This interview did not result in any change in the grounds of rejection of record, and therefore, did not influence the instant petition decision. The basis for the instant decision relies on the standing rejections and for the reasons of record as argued therein.

DISCUSSION

The petition and the file history have been carefully considered.

Applicants cite the MPEP § 706.07(a)

> ...the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of the rejection and objection....applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in prosecution of his or her application...

Applicants also cite the MPEP § 706.07(d):

> [I]f, on request by application for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection.

Applicants further cite the MPEP § 706.07(e):

> The examiner may withdraw the rejection of finally rejected claims. If new facts or reasons are presented such as to convince the examiner that the previously rejected claims are in fact allowable or patentable in the case of reexamination, then the final rejection should be withdrawn.

Applicants argue that the finality was premature because the "...[o]ffice has not given Applicant a 'full and fair hearing..[so that] a clear issue between applicant and examiner [can] be developed...before appeal'" (Applicant citing from the MPEP § 706.07(a)). Specifically, applicants contend that the data found in the declaration as well as set forth in the remarks filed by applicants is sufficient to overcome the examiner's rejection of claims 76, 77, 79 and 80 under 35 USC 112, first paragraph for lacking enablement. Applicants state "Applicant simply seeks an opportunity to provide the Office with the information it needs to fully understand the significance of Applicant's data. Withdrawal of finality would provide Applicant with that further opportunity...Applicant should be given an opportunity to fully address the Office's questions and to rebut the Office's doubts about the scope of Applicant's invention....Applicant should not be cut off in mid-stream. Applicant seeks an opportunity to resume these discussions...Thus, by making the Office Action final after the filing of only one substantive response by Applicant, the Office has effectively foreclosed Applicant's ability to adequately address all of the questions presently raised by the Office."

Applicants further seek the opportunity to rebut the new rejection of claims 76, 77, 79 and 80 for anticipation by Jacob et al. which was provided by applicant in the IDS filed on July 2, 2007: "Applicant should not be denied a full opportunity to respond to this new ground of rejection.

For this reason as well, Applicant respectfully requests withdrawal of finality of the present Office Action." It is pointed out that only claims 76, 77 and 80 were rejected by the examiner as being anticipated by Jacob et al.; claim 79 was not included in the rejection.

Applicants essentially argue that prosecution in the case should go on indefinitely until a time that the examiner agrees with applicant's opinions and finds the examined claims allowable; however, matters involving the finality of Office actions are governed by the MPEP. Such rules with regard to making Office actions final contribute to the overall goal of expedited patent prosecution:

The MPEP § 706.07 recites:

> The examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal. *However, it is to the interest of the applicants as a class as well as to that of the public that prosecution of an application be confined to as few actions as is consistent with a thorough consideration of its merits.*
> *Neither the statutes nor the Rules of Practice confer any right on an applicant to an extended prosecution*; Ex parte Hoogendam, 1939 C.D. 3, 499 O.G.3, 40 USPQ 389 (Comm'r Pat. 1939) emphasis added

Pertaining to the rejection of claims 76, 77 and 80 in the final Office action, applicant readily admits that the IDS submitted on July 2, 2007 contained the Jacob et al. reference which the examiner used to newly reject claims 76, 77 and 80 in the final Office action.

The MPEP § 706.07(a) states:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). *Where information is submitted in an information disclosure statement during the period set forth in 37 CFR 1.97(c) with a fee, the examiner may use the information submitted, e.g., a printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner.* emphasis added

Thus, the new ground of rejection set forth by the examiner in the final Office action was necessitated by the filing of the IDS on July 2, 2007. The examiner properly made final the Office action of September 13, 2007 according to the provisions of MPEP § 706.07. Additionally, there is no new rejection of record in the final Office action which was *not*

necessitated by Applicant's amendments, or *not* necessitated by the submission of an IDS by Applicant.

Further, while Applicants may not agree with the examiner's opinion of facts submitted on record with regard to the rejection over claims 76, 77, 79 and 80, the examiner provided ample, detailed reasons for maintaining this rejection. It is therefore deemed that there is a *clear issue for appeal* between the examiner and Applicants regarding the status of the claimed invention and reasons why the claims are currently rejected. Applicants are reminded of the right to the Appeal process concerning substantive issues involving the rejection of claims; see 37 CFR 1.191.

Accordingly, applicants' arguments are not persuasive that the final Office action issued September 13, 2007 was premature and the finality of the Office action will not be withdrawn.

DECISION

The petition is **DENIED**.

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.

John LeGuyader
Director, Technology Center 1600

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Maryam Imam, Esq.
LAW OFFICES OF IMAM
Suite 1010
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San Jose, CA 95113

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SEP 0 7 2004

OFFICE OF PETITIONS

In re Application of
Sam Nemazie
Application No. 10/775,488
Filed: February 22, 2002
Attorney Docket No. 94.0048

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed August 2, 2004, 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**.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on May 17, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 16, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

The application is being returned to Technology Center Art Unit 2816 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. None

WALTER A. HACKLER, Ph.D.
PATENT LAW OFFICE
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NEWPORT BEACH CA 92660-0755

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JUL 11 2006
OFFICE OF PETITIONS

In re Application of	:	
Gary R. Higgins	:	
Application No. 10/775,492	:	DECISION ON TWO PETITIONS
Filed: February 10, 2004	:	UNDER 37 C.F.R. §§
Attorney Docket No. 3144	:	1.181 and 1.182
Title: TOILET TANK ADAPTER	:	

This is a decision on the petition filed on April 3, 2006 under 37 C.F.R. §1.182, to transfer an amendment into the proper electronic file. The Office will construe Petitioner's submission to also contain a petition under 37 C.F.R. §1.181 to withdraw the holding of abandonment.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 1, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 2, 2005. A notice of abandonment was mailed on March 31, 2006.

The petition under 37 C.F.R. §1.182:

The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

The non-final Office action was mailed on August 1, 2005, and set a three-month period for response. On October 14, 2005, a response was received, which bore the incorrect application number 10/755,492. Consequently, this response was matched with application number 10/755,492. With the present petition, Petitioner has requested that the response of October 14, 2005 be removed from the electronic

file associated with 10/755,492, and placed into the electronic file associated with the present petition.

The petition under 37 C.F.R. §1.182 is **GRANTED**. The response of October 14, 2005 will be placed into the electronic file associated with the present petition in due course.

The petition under §1.181:

Pursuant to the discussion above, the petition under 37 C.F.R. §1.181 is **GRANTED**. The notice of abandonment is hereby WITHDRAWN.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment of October 14, 2005 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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DEC 27 2004

OFFICE OF THE DIRECTOR
TC 3600

Salter & Michaelson
The Heritage Building
321 South Main Street
Providence, RI 02903-7128

In re application of
Vito A. Scola
Application No. 10/775,512
Filed: February 10, 2004
For: SHOPPING BAG CARRIER

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on February 10, 2004, 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(h); (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).

In satisfaction of item (B) above, the petitioner states, "If the Office determines that all the claims presented are not obviously directed to a single invention, then applicant will make an election without traverse as a prerequisite to the grant of special status."

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.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/rwg: 12/18/04

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DIW 08-04

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111 NORTH MARKET ST.
SAN JOSE CA 95113

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OFFICE OF PETITIONS

In re Application of	:	
Sam Nemazie	:	DECISION ON PETITION
Application No. 10/775,521	:	UNDER 37 CFR 1.137(f)
Filed: 9 February, 2004	:	
Atty Dkt No. SiliconStor-02US	:	

This is a decision on the petition under 37 CFR 1.137(f),[1] filed on 2 August, 2004, 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(f)." This is not a final agency decision.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant

[1] 37 CFR 1.137(f) provides for revival of a nonprovisional application which became abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing.

to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition lacks item (1). The petition fails to provide proper notice of foreign or international filing pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) in that the filing date of the subsequently-filed foreign or international application must be provided. Petitioner must provide the date that the foreign or multinational application was filed with any renewed petition.

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 concerning this matter may be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Maryam Imam. Esq.
LAW OFFICES OF IMAM
Suite 1010
111 North Market St.
San Jose, CA 95113

In re Application of
Sam Nemazie
Application No. 10/775,523
Filed: February 9, 2004
Attorney Docket No. SiliconStor-03US

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed August 2, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner indicates that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on May 17, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 16, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being referred to Technology Center Art Unit 2661 for examination in due course.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/775,523	02/09/2004	Sam Nemazie	SiliconStor-03US

CONFIRMATION NO. 1041

OC000000013538068

OC000000013538068

Maryam Imam. Esq.
LAW OFFICES OF IMAM
Suite 1010
111 North Market St.
San Jose, CA 95113

Date Mailed: 08/13/2004

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 12/16/2004.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (703) 305-9282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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OFFICE OF PETITIONS

In re Application of	:	
James J. Rudnick, et al.	:	
Application No. 10/775,536	:	DECISION ON PETITION
Filed: February 10, 2004	:	TO WITHDRAW
Attorney Docket No. 760-84 CON 4	:	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 19, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other 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: BOSTON SCIENTIFIC SCIMED, INC.
ONE SCIMED PLACE
MAPLE GROVE, MA 55311-1566

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PATTON BOGGS LLP
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DENVER CO 80202

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OFFICE OF PETITIONS

In re Application of	:	
McKenna et al.	:	
Application No. 10/775,539	:	ON PETITION
Filed: February 10, 2004	:	
Attorney Docket No. 040819CIP1D1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 28, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

The Power of Attorney submitted on March 21, 2007 was not accepted (as stated in the Notice mailed on April 16, 2007) because the Statement under 37 CFR 3.73(b) was not fully proper. 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. As to item (2) above, the statement submitted with the Power of Attorney lacked the reel and frame number of the assignment and/or documentary evidence of the chain of title from the original owner to the assignee.

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 and proper instructions are received to the contrary.

This matter is being referred to Technology Center 2600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

QUALCOMM INC
5775 MOREHOUSE DR
SAN DIEGO, CA 92121

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

06/03/04

Stanley M. Schurgin
Weingarten, Schurgin, Gagnebin & Lebovivi LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/775542 received on 03/17/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King
Signature of Reviewer, Office of Pre-Grant Publication

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LOWRIE, LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

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MAY 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Neil RASMUSSEN, et al. :
Application No. 10/775,551 : DECISION GRANTING PETITION
Filed: February 10, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **A2000-700631** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 30, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 20, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2831 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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AUG 09 2007

OFFICE OF PETITIONS

In re Application of Fotios Papadimitrakopoulos Application No. 10/775566 Filing Date: 02/10/2004 Attorney Docket Number: UCT-0045	: : : : : :	ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 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 August 16, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

This application is being referred to Technology Center AU 1723 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Derek L. Woods
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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MAR 1 8 2005

OFFICE OF PETITIONS

DOCKET CLERK
PO BOX 12608
DALLAS TX 75225

In re Application of
Zhang and Patel
Application No. 10/775,609
Filed: February 10, 2004
Attorney Docket No. 1578.101 (PUS1472)
For: Apparatus, and Associated Method, for Facilitating Initiation of Channel . . .

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed November 15, 2004.

The petition is **DISMISSED**.

Discussion of the petition:

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR 1.17(g), and
(4) the last known address of the omitted inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy (1). The petition states that the nonsigning inventor no longer resides at his last known address. However, the petition fails to discuss any steps taken to discover a new address and to locate the nonsigning inventor. Examples of steps, may included but are not limited to, internet searches and contacting directory assistance in an attempt to find a current phone number.

The instant petition fails to satisfy (2). The declaration fails to list citizenship for the nonsigning inventor. The necessity for citizenship on the declaration is a statutory requirement. Therefore, the requirement cannot be waived by the Office. The signing inventor may sign a declaration listing citizenship for the non-signing inventor, along with a statement that the citizenship information is correct the best of the signing inventor's knowledge. The declaration fails to list a residential or mailing address for the nonsigning inventor. The addresses can be the last known addresses for the inventor if the nonsigning inventor cannot be located after diligent effort.

Discussion of the power of attorney:

The power of attorney submitted with the petition appoints the practitioner's associated with customer number 44208. Ambiguity exists as to whether or not Donald Morrison may sign on behalf of the assignee, Research in Motion Limited. The power of attorney is signed by Donald H. Morrison who is identified as "Chief Operating Officer, Blackberry." The reason for the presence of the word "Blackberry" is unknown. Is Morrison the Chief Operating Officer of Research in Motion Limited? If yes, any request for reconsideration should explicitly state such a fact.

Discussion of the correspondence address for the application:

The instant petition is accompanied by a declaration, power of attorney, and change of correspondence address.

The declaration requests correspondence be sent to the address associated with customer number 30973. The address for customer number 30973 is: Scheef & Stone, LLP, 5956 Sherry Lane, Suite 1400, Dallas, TX 75225.

Attorney Robert Kelly is an attorney associated with customer number 30973.

Robert Kelly has filed a request to change the correspondence address to the address associated with customer number 44028. The number "44028" appears to contain a typographical error. The power of attorney lists customer number 44208 and customer number 44208 is associated with attorney Robert Kelly. The Office has made a mark through the number 44028 and replaced it with 44208. Normally, the power of attorney issues previously discussed would prohibit the Office from changing the address. However, considering all the facts and circumstances, including the fact that both addresses are for the same law firm, the address has been changed to the address associated with customer number 44208.

The fee:

Effective November 1, 2004, the fee for a petition under 37 CFR 1.47 is $200. The fee of $200 will be charged to petitioner's deposit account.

Reconsideration:

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 current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

Further correspondence with respect to this matter should be addressed as follows:

By facsimile: (703) 872-9306
Attn: Office of Petitions

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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.

Telephone inquiries concerning the instant decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

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PO BOX 12608
DALLAS, TX 75225

In re Application of Zhang and Patel Application No. 10/775,609 Filed: February 10, 2004 Attorney Docket No. 1578.101 For: Apparatus, and Associated Method, for Facilitating Initiation of Channel . . .	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed July 11, 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 petition fee of $200 was charged to petitioner's deposit account on July 12, 2005. However, the fee had been previously charged to the deposit account on March 18, 2005. Therefore, the $200 will be credited back to petitioner's deposit account.

The power of attorney has been entered.

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 concerning the instant decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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P.O. Box 1450
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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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NOV 18 2005

OFFICE OF PETITIONS

In re Application of
Pim van Meurs
Application No. 10/775,663
Filed: February 9, 2004
Attorney Docket No. TEG10015

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed November 8, 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 19, 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 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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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JUL 2 1 2005

MCDERMOTT, WILL & EMERY
Suite 3400
2049 Century Park East
Los Angeles CA 90067

In re Application of	:	
Ramez E.N. Shehada et al	:	
Serial No.: 10/775,666	:	DECISION ON PETITION
Filed: February 9, 2004	:	
For: Surgical Drain with Sensors for	:	
Monitoring Internal Tissue Condition	:	

This is in response to the petition applicant filed on December 29, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 13 2005

MCDERMOTT, WILL & EMERY
Suite 3400
2049 Century Park East
Los Angeles CA 90067

In re Application of	:	
Ramez E.N. Shehada	:	DECISION PETITION
Serial No.: 10/775,670	:	
Filed: February 9, 2004	:	
Title: Surgical Drain With Sensors for	:	
Monitoring Internal Tissue Condition by	:	
Transmitance	:	

This is in response to the petition applicant filed on January 4, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, 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 Richard Bertsch by letter addressed to the Director, Technology Center 3700 or by telephone at (571)272-4050 or by facsimile transmission at (703)872-9306.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

LORI M FRIEDMAN
300 BENTON VIEW DRIVE
PHILOMATH OR 97370

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DEC 08 2004

OFFICE OF PETITIONS

Applicant: Miller
Appl. No.: 10/775,691
Filing Date: February 10, 2004
Title: DEVICES, TESTS AND METHODS FOR THE ANALYSIS OF WINE SAMPLES
Attorney Docket No.: 104CIP
Pub. No.: US 2004/0161366 A1
Pub. Date: August 19, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on September 17, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because publication contains many typographical errors, as "colorimetric" is misspelled as "calorimetric" throughout the specification.

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 errors wherein "colorimetric" is misspelled as "calorimetric" throughout the application are Office errors, but they are minor typographical errors which are understandable from reading the sentence, paragraph and specification in which the terms are used, as terms are not read in a vacuum. While the term "colorimetric" is intermittently misspelled throughout the specification, it is also spelled correctly and the specification discusses the measurement of color, which is clearly a colorimetric. 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 applicant is advised that a "request for republication of an application previously published"

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

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In re Application of	:	
Xiao, Xiaoda	:	DECISION ON PETITION
Application No. 10/775,697	:	TO WITHDRAW
Filed: February 11, 2004	:	FROM RECORD
Attorney Docket No. 5572-1002	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 18, 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 00466 has been revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc:

XIAODA (RICHARD) XIAO
135 BELCHERTOWN ROAD
AMHERST MA 01002

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAIL

MAY 04 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of YAGISAWA et al	:	
Application No.: 10/775,702	:	
Filing Date: February 9, 2004	:	DECISION ON PETITION
For: ARRAY-TYPE DISK APPARATUS	:	FOR ACCELERATED
PREVENTING DATA LOST WITH TWO	:	EXAMINATION UNDER
DISK DRIVES FAILURE IN THE SAME	:	M.P.E.P. §708.02(VIII)
RAID GROUP, THE PREVENTING	:	
PROGRAMMING AND SAID METHOD	:	

This is a decision on the petition filed April 7, 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 April 7, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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CORPORATE INTELLECTUAL PROPERTY, MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

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JUL 2 2 2005

OFFICE OF PETITIONS

In re Application of :

Alessandra Orlandi :

Application No. 10/775,709 : DECISION ON PETITION

Filed: February 10, 2004 :

Attorney Docket No. PI3846US2

This is a decision on the petition under 37 CFR §1.137(b), June 27, 2005, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1,400.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed March 23, 2005. 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 June 24, 2005.

The issue fee and publication fee were received on June 27, 2005.

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

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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/28/2010

Applicant	: Bhasker Allam	: DECISION ON REQUEST FOR
Patent Number	: 7617327	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/775,732	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1144** 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 : 08-08-08

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/775733** Patent No.: **7292961**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/ERC/ 08/13/2008

ELISEO RAMOS-FELICIANO
SUPERVISORY PATENT EXAMINER
SPE

2863
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

DRINKER BIDDLE & REATH LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO IL 60606

COPY MAILED

JAN 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Christie M. Cox et al	:	
Application No. 10/775,746	:	DECISION GRANTING PETITION
Filed: February 10, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. Christie Cox	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of March 1, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3677

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

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JUL 08 2008

OFFICE OF PETITIONS

In re Application of

GOUGH, Edward J. et al.
Application No. 10/775,747
Filed: February 09, 2004
Attorney Docket No. **37167-8012.US00**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Peter J. Dehlinger on behalf of all attorneys of record who are associated with customer No. 22918. 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 address 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.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **EDWARD J. GOUGH**
31 ADDISON WAY
MENLO PARK, CA 94025

cc: **ABELMAN, FRAYNE & SCHWAB**
666 THIRD AVENUE
NEW YORK, NY 10017-5621

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Katten Muchin Rosenman LLP
575 Madison Avenue
New York, NY 10022-2585

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NOV 20 2008

In re Application of	:	
Robert Hendrickson	:	
Application No. 10/775,752	:	DECISION ON PETITION
Filed: February 09, 2004	:	
Attorney Docket No. WRGI 20.264	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 23, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 23, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 24, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

Petitioner states that the entire delay from July 23, 2008 until the filing of a grantable petition was unintentional. However, this is not acceptable in that the due date for the reply was April 23, 2008. The statement does not account for the entire delay from the due date for the reply (April 23, 2008) until the filing of a grantable petition.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

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 Shelley Clement at (571)272-6052 or in her absence to the undersigned at (571)272-7099.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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July 29, 2008

Yenyun Fu
Perkins Coie LLP
P. O. Box 1208
Seattle, WA 98111-1208

Patent No.: 7,365,734 B2
Application No.: 10/775,762
Inventor(s): Sina Fateh
Issued: April 29, 2008
Title: CONTROL OF DISPLAY CONTENT BY MOVEMENT ON A FIXED SPHERICAL SPACE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

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MAY 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,365,734	:	
Issue Date: April 29, 2008	:	
Application No. 10/775,762	:	ON PETITION
Filed: February 9, 2004	:	
Attorney Docket No. 59559-8023.US01	:	

This is a decision on the request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent that has issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Rembrant Technologies, LP and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent that has issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The petition was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Rembrandt Technologies, LP are the assignees

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision may be directed to JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

As authorized, the $130 fee for the petition will be charged to petitioner's deposit account.

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.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
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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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Frederick P. Herrmann	: DECISION ON REQUEST FOR
Patent Number	: 7595782	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/775,765	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1624** 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.

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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OCT 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Mikos et al.	:	
Application No. 10/775,768	:	LETTER REGARDING
Filed: February 10, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
01997/518004	:	

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed June 16, 2008. Petitioners request that the patent term adjustment (PTA) calculation to date be reviewed for accuracy.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is 187 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 16, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is three hundred three (303) days.

The Office initially determined a patent term adjustment of three hundred three (303) days based on an adjustment for examination delay of four hundred forty-five (445) days, pursuant to 35 USC 154(b) and 37 CFR 1.703(a)(1), for issuance of an office action fourteen (14) months and 445 days after the date on which the application was filed. This amount was reduced by one hundred forty-two (142) days of applicant delay pursuant to 37 CFR 1.704(b). This reduction was calculated as follows: A delay for filing a response to the notice to file missing parts three (3) months and 27 days after the mailing of the notice to file missing parts on May 6, 2004; a delay for

filing a response to the non-final office action three (3) months and 81 days after the mailing of the non-final office action on June 29, 2006; and a delay for final a notice of appeal three (3) months after 34 days after the mailing of a final office action on March 26, 2007.
Applicant provides no specific basis for the request for review of the patent term adjustment.

A review of the record reveals that Applicant should have been assessed an additional delay of one hundred sixteen (116) days. On August 16, 2007, a notice of allowance was mailed. Applicants in response filed a Request for Continued Examination (RCE) on November 19, 2007.

37 CFR 1.704(c)(10) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: submission of 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.

Therefore, Applicant should have been assessed a reduction in patent term adjustment for the period of delay from November 19, 2007 (the date the RCE was filed), until March 13, 2008, the date a notice of allowance was mailed in response to the RCE, or 116 days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is one hundred eighty-seven (187) days (445 days of PTO delay, reduced by 258 (27+81+34+116) days of Applicant delay).

As the instant letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 CFR 1.705(b) was not required, and has not been charged.

The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The application is being forwarded to the Office of Data Management 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 Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Monday
Date: 10/27/2008

PALM INTRANET

Time: 15:49:54

PTA Calculations for Application: 10/775768			
Application Filing Date:	02/10/2004	PTO Delay (PTO):	445
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	142
Post-Issue Petitions:	0	Total PTA (days):	187
PTO Delay Adjustment:	-116		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
86	10/27/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		116	
71	03/13/2008	MAIL NOTICE OF ALLOWANCE			
70	03/04/2008	ISSUE REVISION COMPLETED			
69	03/04/2008	DOCUMENT VERIFICATION			
68	03/03/2008	EXAMINER'S AMENDMENT COMMUNICATION			
67	03/03/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
66	03/03/2008	NOTICE OF ALLOWABILITY			
65	11/19/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	11/19/2007	REFERENCE CAPTURE ON IDS			
63	11/19/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	12/18/2007	DATE FORWARDED TO EXAMINER			
61	11/19/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
60	12/18/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
59	11/19/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
58	11/19/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
57	09/20/2007	FINISHED INITIAL DATA CAPTURE			
56	08/21/2007	EXPORT TO INITIAL DATA CAPTURE			
55	08/16/2007	MAIL NOTICE OF ALLOWANCE			
54	08/16/2007	MAIL EXAMINER'S AMENDMENT			
53	08/15/2007	ISSUE REVISION COMPLETED			
52	08/15/2007	DOCUMENT VERIFICATION			
51	08/15/2007	EXAMINER'S AMENDMENT COMMUNICATION			

50	08/15/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	08/15/2007	CASE DOCKETED TO EXAMINER IN GAU			
48	08/10/2007	NOTICE OF ALLOWABILITY			
47	08/06/2007	PARALEGAL TD ACCEPTED			
46	08/06/2007	PARALEGAL TD ACCEPTED			
45	07/30/2007	TERMINAL DISCLAIMER FILED			
44	07/30/2007	TERMINAL DISCLAIMER FILED			
43	07/30/2007	CORRECTED FILING RECEIPT			
42	08/06/2007	DATE FORWARDED TO EXAMINER			
41	07/30/2007	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
40	07/30/2007	NOTICE OF APPEAL FILED		34	38
39	07/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	03/26/2007	MAIL FINAL REJECTION (PTOL - 326)			
37	03/19/2007	FINAL REJECTION			
36	12/19/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
35	01/11/2007	DATE FORWARDED TO EXAMINER			
34	12/19/2006	RESPONSE AFTER NON-FINAL ACTION		81	31
33	12/19/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	10/13/2006	CASE DOCKETED TO EXAMINER IN GAU			
31	06/29/2006	MAIL NON-FINAL REJECTION	445		-1
30	06/26/2006	NON-FINAL REJECTION			
29	06/23/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	05/01/2006	CASE DOCKETED TO EXAMINER IN GAU			
27	04/27/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
26	06/23/2005	REFERENCE CAPTURE ON IDS			
25.7	06/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	06/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	06/14/2004	PRELIMINARY AMENDMENT			
23	02/10/2004	PRELIMINARY AMENDMENT			
22	03/20/2006	APPLICATION RETURN FROM OIPE			
21	03/21/2006	APPLICATION IS NOW COMPLETE			

20	03/20/2006	APPLICATION RETURN TO OIPE			
19	03/20/2006	APPLICATION RETURN FROM OIPE			
18	03/20/2006	APPLICATION IS NOW COMPLETE			
17	09/02/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		27	7
16	09/13/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
15	09/13/2004	APPLICATION RETURN TO OIPE			
14	09/13/2004	APPLICATION RETURN FROM OIPE			
13	09/13/2004	APPLICATION RETURN TO OIPE			
12	09/13/2004	APPLICATION DISPATCHED FROM OIPE			
11	09/13/2004	APPLICATION IS NOW COMPLETE			
9	09/02/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	06/14/2004	WORKFLOW INCOMING AMENDMENT IFW			
7	05/06/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	03/30/2004	CLEARED BY L&R (LARS)			
4	03/18/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	03/18/2004	CASE CLASSIFIED BY OIPE			
2	02/20/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/10/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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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
10/775,772	02/09/2004	1756	1756	5649-1215	6	70	4

CONFIRMATION NO. 9374

UPDATED FILING RECEIPT

OC000000013292191

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Date Mailed: 07/21/2004

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)

SoonHo Kim, Gyeonggi-do, KOREA, REPUBLIC OF;
Seongyong Moon, Gyeonggi-do, KOREA, REPUBLIC OF;
Jinhong Park, Seoul, KOREA, REPUBLIC OF;
Seongwoon Choi, Gyeonggi-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/623,616 07/22/2003

Foreign Applications

REPUBLIC OF KOREA P2003-0084715 11/26/2003
REPUBLIC OF KOREA 2002-61046 10/07/2002

If Required, Foreign Filing License Granted: 06/15/2004

Projected Publication Date: 10/28/2004

Non-Publication Request: No

Early Publication Request: No

Title

Photomasks including shadowing elements therein and related methods and systems

Preliminary Class

430

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Alexandria, VA 22313-1450
www.uspto.gov

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
SoonHo Kim et al	:	DECISION GRANTING
Application No. 10/775,772	:	PETITION
Filed: February 9, 2004	:	
Attorney Docket No. 9040-27	:	

This is a decision on the paper styled "PETITION TO ACCORD THE PROPER FILING DATE" filed July 2, 2004, requesting that the above-identified application be accorded a filing date of February 9, 2004, rather than the presently accorded filing date of February 10, 2004.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail February 9, 2004, pursuant to the requirements of 37 CFR 1.10. In support, applicants provided, inter alia, a copy of the Express Mail label, receipt no. EV353594128US. The same Express Mail receipt number appears on the original Application Transmittal Letter submitted with the instant application. It is noted that while the "date-in" on the copy of the Express Mail receipt was left blank, it includes a receipt stamp dated "February 9, 2004" but the City and the State where the package was accepted is not legible. Further, the copy of the USPS Track/Confirm system information shows that the package in question was enroute on February 9, 2004.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the U.S. Postal Service on February 9, 2004. Accordingly, the instant application is entitled to a filing date of February 9, 2004 and has been so accorded.

The petition is granted. No petition fee is required and none has been charged.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 1756 for examination in due course.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DIW Mar-07

Harry I. Leon
924 Bowen St., N.W.
Atlanta GA 30318

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MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of :
H. Lee Hamlin :
Application No. 10/775,773 : DECISION ON PETITION
Filed: 9 February, 2004 :
For: MACHINE FOR INSTALLING :
ROLLED SHINGLE ROOFING MATERIAL :

This is a decision on the petition filed on 20 November, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 6 January, 2006, for failure to timely submit a response to the non-final Office action mailed

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

on 5 October, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 19 September, 2006.

The application is being referred to Technology Center Art Unit 3654 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 11 2004

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

In re Application of	:
Keren I. Hulkower et al	:
Serial No.: 10/775,780	: PETITION TO MAKE SPECIAL
Filed: February 10, 2004	:
Attorney Docket No.: 06244.00002	:

This is in response to applicants' petition filed March 28, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Dec-06

WILLIAM C. FUESS
FUESS & DAVIDENAS
SUITE II-G
10951 SORRENTO VALLEY ROAD
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of	:	
John S. Fox	:	
Application No. 10/775,792	:	ON PETITION
Filed: 9 February, 2004	:	
Atty Docket No. LIG 0001P	:	

This is a decision on the petition filed on 15 August, 2005 (certificate of mailing date 10 August, 2005),[1] styled as a petition under 37 CFR 1.137(a) and 1.181, which, in the absence of a fee, is treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.[2]

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioner.

This application became abandoned on 2 December, 2004, for failure to timely submit a reply to the Notice to File Corrected Application Papers mailed on 1 October, 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 10 June, 2005.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the Notice mailed on 1 October, 2004.

A review of the record indicates no irregularity in the mailing of the Office communication mailed on 1 October, 2006, and in the

---

[1] It is noted that the petition miscaptioned the application number as "10/775,702" and the last name of the inventor is misspelled. However the petition has now been matched with the proper application file.

[2] In the absence of the petition fee, which is required by law, the PTO can only treat the instant petition as a (feeless 1.181) petition to withdraw the holding of abandonment. See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

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 non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[3] For example, if a two (2) month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date two (2) months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. Specifically, petitioner has not provided a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. The docket record must be attached to and referenced in practitioner's statement.

As such, the petition is **dismissed**. However, the dismissal is without prejudice to reconsideration pending submission of the items required above.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[4]

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

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[3] 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).

[4] 37 CFR 1.181(f).

Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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John S. Fox
684 Poinsettia Park South
Encinitas CA 92024

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OFFICE OF PETITIONS

In re Application of
John S. Fox
Application No. 10/775,792
Filed: February 9, 2004
Attorney Docket No. LIG0001P

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 29, 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 Notice to File Missing Parts of Nonprovisional Application (Notice), mailed October 1, 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) was obtained. Accordingly, the application became abandoned on December 2, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to the Office of Initial Patent Examination for furthering processing.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF PETITIONS

In re Application of :
David P. **YACH, et al.** :
Application No. 10/775,817 :
Filed: February 10, 2004 :
Attorney Docket No. **1578.115(11428-4-US-PAT)** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 1, 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 20, 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 under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 21, 2007.

37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since the application is not a utility or plant application filed before June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer filed with the instant petition is unnecessary. Therefore, the fee of will be refunded to petitioner in due course.

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) an adequate statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case,

although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2166 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.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **SCHEEF & STONE, LLP**
5956 SHERRY LANE, SUITE 1400
DALLAS, TX 75225

Electronic Acknowledgement Receipt

EFS ID:	3243426
Application Number:	10775817
International Application Number:	
Confirmation Number:	8167
Title of Invention:	Apparatus, and associated method, for locking and identifying a change list used pursuant to database synchronization operations in a radio communication system
First Named Inventor/Applicant Name:	David Paul Yach
Customer Number:	44208
Filer:	Robert H. Kelly./Lilis Pramasurja
Filer Authorized By:	Robert H. Kelly.
Attorney Docket Number:	1578.115 (11428-4-US-PAT)
Receipt Date:	01-MAY-2008
Filing Date:	10-FEB-2004
Time Stamp:	19:43:45
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$2480
RAM confirmation Number	3632
Deposit Account	502032
Authorized User	

Adjustment date: 02/27/2009 CKHLOK
05/02/2008 INTEFSW 00003632 502032 10775817
02 FC:1814 130.00 CR

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

Charge any Additional Fees required under 37 C.F.R. Section 1.16 (National application filing, search, and examination fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)

File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1	Petition for review by the Office of Petitions.	Petition_37CFR1137b_11428-4.pdf	117424 05c5c75b9a617c2453c6246b6626b1488191c026	no	2
Warnings:					
Information:					
2	Terminal Disclaimer Filed	Terminal_Disclaimer_11428-4.pdf	65990 acadc51c5ea018bf92071902808f229e5a0ea045	no	1
Warnings:					
Information:					
3		ROA_20July2007_11428-4.pdf	110463 b88cf30c187005fdbe404fec9643cbd80476f190	yes	7

Multipart Description/PDF files in .zip description

Document Description	Start	End
Amendment Submitted/Entered with Filing of CPA/RCE	1	1
Claims	2	5
Applicant Arguments/Remarks Made in an Amendment	6	7

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
Warnings:					
Information:					
4	Request for Continued Examination (RCE)	RCE_11428-4.pdf	701747 c12d63ea556aec949bf3020851cbc434377f6709	no	3
Warnings:					
Information:					
5	Fee Worksheet (PTO-06)	fee-info.pdf	8555 34c1039d9a1212b4faa46a08f831d67ff17669ca	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	1004179		

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 02/24/09

2 Serial/Patent # 10/775,817

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
X	Other Term Disc. 1814	DIST	05/01/08	$ 130.00

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 5 0 -- 2 0 3 2

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Filing of TD was unnecessary.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Monica A. Graves TITLE: Paralegal Specialist

SIGNATURE: /Monica A. Graves/ PHONE: (571) 272-7253

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKuck DATE: 2/27/09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-5-06

TO SPE OF : ART UNIT 3711

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/775830 Patent No.: 7083420

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

check Drawing Sheets

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. 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: _____

SEUGENE KIM

SUPERVISORY PATENT EXAMINER

3711

Art Unit

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEE, HONG, DEGERMAN, KANG & SCHMADEKA
801 S. FIGUEROA STREET
12TH FLOOR
LOS ANGELES CA 90017

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MAR 0 8 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Kim, Yong Joo	:	
Application No. ~~10/755,835~~ 10/775,835	:	
Filed: February 9, 2004	:	
Attorney Docket No. 2080-3-227	:	

This is a decision on the petition under 37 CFR 1.10(d), filed April 29, 2005, requesting that the above-identified application be accorded a filing date of February 6, 2004, rather than the presently accorded date of February 9, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be referred to Technology Center AU 2625 with the presently accorded filing date of February 9, 2004.

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 Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS.

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. 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." 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. Conversely, evidence 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 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") cannot be accepted under the terms of the rule.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on February 6, 2004, pursuant to the requirements of 37 CFR 1.10. In support, petitioner has submitted a copy of the Pick Up Service Statement, the "Express Mail" mailing label and Declarations from Emil D. Byun and Margie A. Uribe.

A grantable petition under 37 CFR 1.10(d) must include:

> (1) The filing of a petition 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 placement of the "Express Mail" number on the mailing label of the paper(s) or fee(s) that constitutes the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) A showing which establishes, to the satisfaction of the Director, 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 petition lacks item (3). In this regard, petitioner has not submitted the evidence necessary to establish that the package at issue was deposited by Express Mail on February 6, 2004. The declarations submitted with the petition are not considered to be evidence that came into being within one business day and are, at best, conclusions not based on facts in evidence. As noted above, 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." The declarations submitted are not the type of evidence required by 37 CFR 1.10(d) to establish the date of deposit of the package in question by Express Mail. The evidence does establish that the package in question was given a "date-in" of February 9, 2004 and that is the date accorded to this application.

Petitioner is advised that correspondence should be deposited with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

Accordingly, petitioner has not met the showing required under 37 CFR 1.10(d)(3).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:	Mail Stop PETITION Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300 Attn: Office of Petitions
By hand:	U. S. Patent and Trademark Office Customer Service Window, Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Steven C. Schnedler
Carter, Schnedler & Monteith, PA
56 Central Ave., Suite 101
PO Box 2985
Asheville, NC 28802

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JAN 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark A. Monson	:	
Application No. 10/775,842	:	DECISION ON PETITION
Filed: February 9, 2004	:	TO WITHDRAW
Attorney Docket No. KARBO-3	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 27, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark A. Monson 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 Mark A. Monson at the address indicated below.

The application became abandoned for failure to timely for failure to timely respond to the Office action mailed June 27, 2007.

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: **Mark Monson**
14001 West Street
Union Grove, WI 53182

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/775,842	02/09/2004	Mark A. Monson	KARBO-3

CONFIRMATION NO. 1650

POWER OF ATTORNEY NOTICE

OC000000027787609

31671
STEVEN C. SCHNEDLER
CARTER SCHNEDLER & MONTEITH, PA
56 CENTRAL AVE., SUITE 101
PO BOX 2985
ASHEVILLE, NC 28802

Date Mailed: 01/18/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/27/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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EI DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

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OCT 17 2007
OFFICE OF PETITIONS

In re Application of	:	
Haixin Yang	:	
Application No. 10/775,848	:	DECISION GRANTING PETITION
Filed: February 9, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. EL0542USNA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of November 22, 2006, is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020 extension of time submitted with the petition on May 24, 2007 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1796.

Karen Creasy

Karen Creasy
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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MAY 31 2007

OFFICE OF PETITIONS

WILLIAM ANDES
GENERAL ELECTRIC CO
ONE NEUMANN WAY H17
CINCINNATI, OH 45215

In re Application of :
Robert L. Ponziani et al :
Application No. 10/775,851 : ON PETITION
Filed: February 10, 2004 :
Attorney Docket No. 13-DV-132640 :

This is a decision on the petition filed January 16, 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 formal drawings in a timely manner in reply to the Notice of Allowance mailed June 20, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 21, 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 the formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received.

The power of attorney submitted with petition on January 16, 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. A blank 37 CFR 3.73(b) accompanies this decision.

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: Steven J. Rosen
4729 Cornell Rd.
Cincinnati, OH 45241

Attachment: blank 37 CFR 3.73(b)

PTO/SB/96 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is_____ %)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.,* a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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DENNIS G. LAPOINTE
LAPOINTE LAW GROUP, PL
PO BOX 1294
TARPON SPRINGS FL 34688-1294

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of: :
Watabe et al. :
Application No. 10/775,862 : ON PETITION
Filed: February 10, 2004, :
Docket No.:1582.34

This is a decision on the petition filed November 15, 2005, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment.

The petition is dismissed. Any request for reconsideration of this decision must be filed within TWO MONTHS of this mailing. See 37 CFR 1.181(g). Extensions of this period under 37 CFR 1.136(a) are not available.

This application apparently became abandoned for failure to reply to the Office action of April 7, 2005, which set a shortened statutory period for reply of three months. As no reply was received and no extensions of time were received, the application became abandoned at midnight July 7, 2005.

Petitioner requests withdrawal of the holding of abandonment on the grounds that the Office action was never received at either the [obsolete] address to which it was mailed: Mason Law 17757 US 19 North Suite 500, Clearwater Florida, ("Mason") or at the above-captioned address which became effective January 1, 2005. Petitioner contends that a request for a change of correspondence address herein had been presented to the USPTO Electronic Business Center ("EBC") for association with customer number 24040 in late December 2004. Petitioner supplies copies of docket records where the non-received Office action would have been entered had it been received and statements from both firms that a review of the file jacket and docket records at both locations establishes that the last communication received from the USPTO for this application was a Notice Of Missing Parts that was replied to on May 14, 2004.

Initially, the Office action which was mailed to Mason, notwithstanding petitioner's assertion that a change of address was sent to the EBC in late December of 2004, actually appears to have

been mailed to the correct address. The undersigned has contacted the EBC for assistance in this matter. The EBC did receive 4 spreadsheets for customer number 24040 in late November and December of 2004, but is unable to find any spreadsheet listing 10/775,862. The spreadsheets were received November 29, 2004, December 15, 2004, and 2 were received on December 23, 2004, that had reports sent to counsel on January 13, 2005, January 20, 2005, February 2, 2005, and March 1, 2005, respectively. EBC has also confirmed that no notification was sent to counsel which indicated that a requested change of address for customer number 24040 that referenced this application could not be processed. Therefore, a copy of the spreadsheet that counsel sent to the EBC in late December 2004, that included this application number is requested for any renewed petition.

Accordingly, a review of the written record indicates no irregularity in the mailing of Office action of April 7, 2005, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to counsel at the Mason 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 communication must consist of:

> (1) a first-hand statement from the practitioner stating that the action was not received by the practitioner,
> (2) his attestation to the fact that a search of the file jacket and docket records indicates that the Office action was not received, and
> (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioners' statement. See MPEP 711.03(c) subsection I.

It is further not clear that a copy of the docket records has been supplied. That is, the photocopies supplied from both addresses appear to actually correspond to the electronic *file jacket* records that are strictly limited to papers and tasks for this application, and are not indicative of all correspondence received at Mason or counsel's current address with a few days of the mailing of the office action of April 7, 2005. Further, the statement of Ms. Diane Miller is to the effect that any correspondence for this application received at Mason on and after the January 1, 2005, restructuring would have been re-mailed to counsel at the above-captioned address. Ms. Miller does not state that correspondence for counsel received at Mason on or about April 7, 2005, would also have been entered into the Mason file jacket and docket records. Thus the absence of any entry for this application in either the file jacket or, even if shown, the docket records, for this application at Mason is not dispositive. There is not adequate proof on non-receipt at Mason, and the Miller declaration, coupled with the showing at the above-captioned address also raises the possibility that the correspondence could have been lost either at Mason or in the remailing to the above-captioned address after its receipt at

Mason. It remains petitioner's burden to adequately establish non receipt of the April 7, 2005, Office action at the Mason address to which the correspondence was correctly mailed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building 401 Dulany Street
Alexandria, VA 22314:

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

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LAPOINTE LAW GROUP, PL
PO BOX 1294
TARPON SPRINGS FL 34688-1294

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OFFICE OF PETITIONS

In re Application of: :
Watabe et al. :
Application No. 10/775,862 : ON PETITION
Filed: February 10, 2004, :
Docket No.:1582.34

This is a decision on the renewed petition filed January 25, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment.

The petition is granted.

The supplemented showing is sufficient to establish that the Office action of April 7, 2005, was not received at the address to which it was mailed. As such the holding of abandonment is withdrawn and this application is recognized as not abandoned in the first instance.

Since applicant has also prepared a reply to the non-received Office action it not necessary for the Technology Center to remail the office action.

This application is being to the Technology Center to consider the reply to the Office action. The delay in treating this petition is regretted.

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions

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General Electric Co.
One Neumann Way, H17
Cincinnati, OH 45215

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OFFICE OF PETITIONS

In re Application of
Ponziani, et al.
Application No. 10/775,864
Filed: February 10, 2004
Attorney Docket No. 13-DIV-132639B

ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed on January 22, 2007, to withdraw the holding of abandonment.

The petition is **granted**.

The application became abandoned on April 18, 2006, after no response was received to the restriction/election requirement mailed March 17, 2006. The notice set a shortened period for reply of one month from its mailing date. No response was received within the allowable period, and the application became abandoned on April 18, 2006.

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 Power of Attorney and Correspondence Address Indication Form, filed January 22, 2007, is noted, but cannot be entered as it was not accompanied by a statement under 37 CFR 3.73(b) empowering the assignee to act in the application. A courtesy copy of this decision will be mailed to the address cited in the petition, but all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application file is being forwarded to Technology Center 3600, GAU 3663 for resetting of the time period for responding to the restriction/election requirement.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc:
Steven J. Rosen
Patent Attorney
4729 Cornell Road
Cincinnati, OH 45241

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FISH & RICHARDSON PC
P O BOX 1022
MINNEAPOLIS, MN 55440-1022

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MAR 2 0 2006
OFFICE OF PETITIONS

In re Application of	:
Alfred F. Bergeron et al	:
Application No. 10/775,873	: DECISION GRANTING PETITION
Filed: February 10, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 07703-356002	:

This is a decision on the petition, filed March 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3653 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\775873.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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APR 05 2010
OFFICE OF PETITIONS

In re Application of
Alfred F. Bergeron et al
Application No. 10/775,873
Filed: February 10, 2004
Attorney Docket No. 07703-356002

ON PETITION

This is a decision on the petition, filed March 26, 2010 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 17, 2010 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 3653 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/775,874	02/10/2004	2853	1054	2003-0694.02	7	31	4

CONFIRMATION NO. 1153

CORRECTED FILING RECEIPT

OC000000015272928

21972
LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

Date Mailed: 02/25/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Colin G. Maher, Lexington, KY;
James H. Powers, Lexington, KY;

Power of Attorney: The patent practitioners associated with Customer Number **21972**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/775,874

Projected Publication Date: 08/11/2005

Non-Publication Request: No

Early Publication Request: No

Title

High resolution ink jet printhead

Preliminary Class

347

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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Camille Jolly-Tornetta
RheoGene, Inc.
2650 Eisenhower Avenue
Norristown, PA 19403

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APR 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert E. Hormann, et al.	:	
Application No. 10/775,883	:	ON PETITION
Filed: February 9, 2004	:	
Attorney Docket No. A01381-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A Notice to File Missing Parts was mailed to applicant on May 25, 2004, which set a two (2) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on July 26, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, an executed oath/declaration and requisite surcharge. Receipt of the oath/declaration and surcharge is acknowledged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Office of Initial Patent Examination.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100110

DATE : January 10, 2010

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7304161

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

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TECHNOLOGY CENTER 2100

HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES CA 90071-2611

In re Application of: Matsunami, et al.
Application No. 10/775,886
Filed: February 10, 2004
For: STORAGE 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 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 **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new

application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 01 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 of the references is confusing. Petitioner states that the "references do not disclose or suggest the features and steps of the claims of the present invention." Petitioner then goes on to state that the references fail to disclose or suggest essentially all of the limitations of independent claim 1. It is not clear if these statements are intended to mean that none of the elements of claim 1 are disclosed by the references or that the entirety of claim 1 is not disclosed by the references. If the intent is the former, it would be difficult to conclude that the search was directed to the claimed invention if essentially *none* of the claim limitations were found in the prior art deemed "most closely related". If the intent is the latter, a statement that the entirety of independent claim 1 is not disclosed by the four references purported to be "most closely related" is not a sufficient detailed description. Petitioner then further states that three of the references fail to disclose the limitation of a "first interface control device decides based on identification information received from the computer a storage position of data of the file designated by the identification information with the plurality of disks" and that the fourth reference fails to disclose this limitation and the limitation of "a second interface control device connecting to the first interface control device". It is unclear what is intended by the discussion of these specific limitations when it appears to have already been alleged that either the references fail to disclose any of the elements of claim 1 or that the references fail to disclose the entirety of claim 1, as noted above. Additionally, it is not clear that claim 25 requires that the identification information used to decide a storage position is received from the computer.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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Suite 370
Alexandria, VA 22314

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AUG 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
MATSUNAMI et al
Application No. 10/775,886
Filed: February 10, 2004
For: STORAGE DEVICE

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the renewed petition, filed on June 26, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In

> those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of June 26, 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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LARSON, NEWMAN, ABEL, POLANSKY & WHITE, L
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN, TX 78730

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Fowler et al.	:	DECISION ON PETITION
Application No. 10/775,898	:	TO WITHDRAW
Filed: February 10, 2004	:	FROM RECORD
Attorney Docket No. 1017-0014-C2	:	

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 28, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 34456 has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

cc:

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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SUITE 200
AUSTIN, TX 78730

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Fowler et al.	:	DECISION ON PETITION
Application No. 10/775,899	:	TO WITHDRAW
Filed: February 10, 2004	:	FROM RECORD
Attorney Docket No. 1017-0014-C1	:	

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 28, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 34456 has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

cc:

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Motoyasu Yamamori et al :
Application No. 10/775,924 :
Filed: February 9, 2004 :
Attorney Docket No. 09856/0200511-USO :

This is a decision on the petition, filed March 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3611 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

In re Application of
Friedrich Bock
Application No. 10/775,956
Filed: February 10, 2004
For: **REAL-EAR ZOOM HEARING DEVICE**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed March 6, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination. A review of the file finds that earlier filed copies of the petition filed on October 13, 2005; February 21, 2006 and February 22, 2006 are unsigned.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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HOFFMANN & BARON LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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In re Application of
Paul J. Thompson
Application No. 10/775,961
Filed: February 10, 2004
Attorney Docket No. 760-229
DIVII/RCE/DIV

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 1, 2005, which set a shortened statutory period for reply of three (3) months. A three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on December 2, 2005. A Notice of Abandonment was mailed on December 16, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply, (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of June 1, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3738 for appropriate action in the normal course of business on the reply received March 3, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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Arturo Olaya
Apt L3
39-06 114 Street
Corona, NY 11368

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OFFICE OF PETITIONS

In re Application of :
Arturo Olaya :
Application No. 10/775,969 :
Filed: October 22, 2004 :
Attorney Docket No. :

DECISION GRANTING PETITION

This is a decision on the petition filed October 22, 2004. The petition will be treated as petition filed under 37 CFR 1.182.

The petition is **granted**.

On February 11, 2004, the above-identified application was filed. However, on October 4, 2004, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date of February 11, 2004, and advising applicant that pages 6 of the specification appeared to have been omitted. As to the requirement for page 6 of the specification, the notice set a non-extendable period for reply two-months from its mailing date. The Notice also required replacement drawings be filed.

In response, on October 22, 2004, applicant filed the present petition, page 6 of the specification, and a supplemental declaration. Applicant also filed two sheets of drawings, but indicated that he did not believe replacement drawings should be required.

As to the omitted page 6 of the specification, applicant appears to be exercising option II as presented in the Notice, which allows applicant to supply the omitted item and accept the date that the omitted item is filed as the filing date of the above-identified application. Accordingly, the subject application is accorded a filing date of October 22, 2004, with page 6 of the specification as part of the original disclosure.

The petition fee of $130.00 will not be refunded as it was required in order for the petition to be considered grantable and applicant provided no evidence that page 6 of the specification was present on the original filing date of February 11, 2004. The extension of time obtained by petitioner was not necessary and the fee of $55.00 will be refunded to petitioner in due course.

The application file will be directed to the Office of Initial Patent Examination with a filing date of October 22, 2004. The Office of Initial Patent Examination will review the drawings filed October 22, 2004, and issue a corrected filing receipt reflecting the new application filing date of October 22, 2004.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

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OFFICE OF PETITIONS

In re Application of	:	
Zhu et al.	:	DECISION ON PETITION
Application Number: 10/775979	:	TO WITHDRAW HOLDING OF
Filing Date: 02/10/2004	:	ABANDONMENT
Attorney Docket Number: 226083	:	

This is in response to the petition filed on 24 August, 2007, to withdraw the holding of abandonment of the above-identified application.

This application is in an abandoned status for failure to respond in a timely and effective manner to the Notice of Allowance and Fee(s) Due mailed on 23 April, 2007. A Notice of Abandonment was mailed on 16 August, 2007.

Petitioners assert that the Notice of Allowance mailed on 23 April, 2007, was not received. In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice of Allowance was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt

rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Notice was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the non-final Office action on the part of the United States Patent and Trademark Office (Office).

To support the petition, the petitioner has submitted copies of the docket record where the non-received Office communication would have been entered had it been received, and a statement from the practitioner stating that a search of the file jacket and docket records indicates that the Office communication was not received.

The petitioner has made a sufficient showing of non-receipt of the non-final Office action based upon the docket records submitted and upon the statements from the practitioner. Accordingly, the application was not abandoned in fact.

The petition is **GRANTED.**

As petitioners have submitted the issue and publication fees required by the Notice of Allowance with the present petition, there is no need to remail the Notice.

The application file will be forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No.

Michael S. Leonard
Bell, Boyd & Lloyd LLC
P.O. Box 1135
Chicago, IL 60690-1135

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OFFICE OF PETITIONS

In re Application of :
Morimasa Yoneoka :
Application No. 10/775,984 :
Filed: February 9, 2004 :
For: SEPARABLE END STOP FOR :
SLIDE FASTENERS : ON PETITION

This is a decision on the Petition to Acknowledge Receipt of Drawings, filed as part of a Response to Notice of Omitted Items in a Nonprovisional Application, filed October 20, 2004, requesting the application be accorded a filing date of February 9, 2004, including drawing Figures 12-16 described in the specification.

The petition is **granted**.

The application was filed on February 9, 2004. However, on August 20, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Items in a Nonprovisional Application ("Notice"), noting that a filing date had been accorded the application; however drawing Figures 12-16 described in the specification appeared to have been omitted from the application.

In response, Petitioner files the instant petition wherein Petitioner avers that drawing Figures were included among 16 sheets of drawings pages of drawings originally filed with the application on February 9, 2004, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 16 sheets of drawings on February 9, 2004.

A review of Office records reveals that 14 sheets of drawings, containing Figures 1 - 11 and 17-26, were received on February 9, 2004. A review of the return receipt postcard reveals, and the postcard acknowledges receipt of 16 sheets of drawings on

February 9, 2004. Petitioner has also re-submitted 3 sheets of drawings, containing drawing Figures 12-16, with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The copy of 3 sheets of drawings containing drawing Figures 12-16 and supplied with the instant petition on October 20, 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 February 9, 2004, and an indication that drawing Figures 12-16 were present on filing, using the copy of 3 sheets of drawings containing drawing Figures 12-16 filed on October 20, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

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HAN-YI LEE
BAYSHORE PATENT GROUP, LLC.
520 CHANTECLER DR.
FREMONT, CA 94539

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In re Application of
Ching-Chang Yu, et al.
Application No. 10/775,991
Filed: February 9, 2004
Attorney Docket No. US920152

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: RICH PATENT & TRADEMARK OFFICE
10F-2, 164, DUN-HWA SOUTH ROD., 2ND SECTION
TAIPEI 106
TAIWAN

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OFFICE OF PETITIONS

In re Application of	:	
Yach, et al.	:	
Application No. 10/776,004	:	ON PETITION
Filed: February 10, 2004	:	
Attorney Docket No. 1578.106	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 29, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action, mailed September 12, 2008. This Office action set a shortened statutory period for reply of three months. Applicant filed an Amendment on November 11, 2008. However, in an Advisory Action mailed on November 20, 2008, the Examiner informed Applicant that the Amendment did not place the application in condition for allowance. No further reply having been received, the application became abandoned on December 13, 2008. The Office mailed a Notice of Abandonment on June 22, 2009.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 2167 for consideration of the RCE, filed June 29, 2009.

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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RESEARCH IN MOTION
ATTN: GLENDA WOLFE
BUILDING 6, BRAZOS EAST, SUITE 100
5000 RIVERSIDE DRIVE
IRVING TX 75039

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In re Application of	:	
Yach, et al.	:	
Application No. 10/776,006	:	DECISION ON PETITION
Filed: 12 October, 2004	:	
Attorney Docket No. 1578.120 (11428-5-US-PAT)	:	

This is a decision on the petition filed under 37 C.F.R. §1.78(a)(5) on 25 June, 2007, and considered under 37 C.F.R. §1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. §119(a)-(d) for the benefit of priority to foreign European Patent Application No. 04250705.3, filed on 10 February, 2004.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 C.F.R. §1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 C.F.R. §1.55(c).

A petition under 37 C.F.R. §1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number,

country, and the filing date and be included either in an oath or declaration (37 C.F.R. §1.63(c)(2)) or in an Application Data Sheet (37 C.F.R. §1.76(b)(6);

(3) the surcharge as set forth in 37 C.F.R. §1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 C.F.R. 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on 12 October, 2004, which is after November 29, 2000 and within 12 months of 10 February, 2004 (the filing date of the foreign application to which benefit is now being claimed). On 25 June, 2007, a signed application data sheet (ADS) was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,370.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. §1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(a)-(d) and 37 C.F.R. §1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 2161 for further processing examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. §119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to John J. Gillon, Jr., attorney, at (571) 272-3214.

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
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/776,006	10/12/2004	2161	920	1578.120 (11428-5-US-PAT)	20	2

CONFIRMATION NO. 9101

CORRECTED FILING RECEIPT

54120
RESEARCH IN MOTION
ATTN: GLENDA WOLFE
BUILDING 6, BRAZOS EAST, SUITE 100
5000 RIVERSIDE DRIVE
IRVING, TX 75039

OC000000032082442

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)

David Paul Yach, Waterloo, CANADA;
Barry Warren Linkert, Petersburg, CANADA;
Jie Zhu, Kitchener, CANADA;
Salim Hayder Omar, Waterloo, CANADA;
Piotr K. Tysowski, Waterloo, CANADA;
Albert Hecht-Enns, Waterloo, CANADA;
Catherine Phillips, Waterloo, CANADA;
Kathy Ann Pereira, Waterloo, CANADA;

Power of Attorney:

F. Scott--26230
Richard Kretchmer--26930
Robert Kelly--33922
Jack Stone Jr--38324
Stephen Wyse--40880
Walter Malinowski--43423
Thomas Hayes--45688

Domestic Priority data as claimed by applicant

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 04250705.3 02/10/2004

If Required, Foreign Filing License Granted: 10/25/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/776,006**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Apparatus, and associated method, for facilitating determination of synchronization status of database copies connected by way of a radio air interface of a radio communication 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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Paper No. 041505

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

AUG - 2 2005

In re Application of:
VICARIO, PIER GIORGIO et al.
Serial No.: 10/776,011
Filed: February 10, 2004
Attorney Docket No.: **1427-2**

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 April 05, 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 Justin K. Holmes, on behalf of himself. There is no outstanding Office action at this time.

The request is **APPROVED**.

The law firm of Hoffmann & Baron, LLP remains of record at this time.

All future communications from the Office will continue to be directed to Hoffmann & Baron LLP, until otherwise notified by applicant.

Inquiries related to 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

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/02/04

Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/776018 received on 03/12/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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JOHN R. BENEFIEL
SUITE 100 B
280 DAINES STREET
BIRMINGHAM, MI 48009

COPY MAILED

SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of
William Rusu
Application No. 10/776,019
Filed: February 9, 2004
Attorney Docket No.: RUS-102

ON PETITION

This is a decision on the petition, filed September 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3612 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Date : September 9, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : William Rusu
Application No. : 10/776,019
Filed : February 9, 2004

The above-identified application has been assigned Patent No. 6,948,759 and an issue date of September 27, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 27, 2005:

> "All reference to Patent No. 6,948,759 to WILLIAM RUSU of MICHIGAN for HARD TONNEAU COVER appearing in the Official Gazette of September 27, 2005, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-44I (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9I0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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July, 15, 2005

MCDERMOTT, WILL & EMERY
Suite 3400
2049 Century Park East
Los Angeles CA 90067

In re Application of	:	
Shehada, Ramez E.N.	:	DECISION PETITION
Serial No.: 10/776,020	:	
Filed: February 9, 2004	:	
Title: Surgical Drain With Sensors For Fluid In Lumen	:	

This is in response to the petition applicant filed on January 4, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, 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 or by telephone at (571)272-2975 or by facsimile transmission at (571)273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

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

AUG 19 2005

MCDERMOTT, WILL & EMERY
Suite 3400
2049 Century Park East
Los Angeles CA 90067

In re Application of	:	
Ramez E.N. Shehada	:	
Serial No.: 10/776,021	:	DECISION ON PETITION
Filed: February 9, 2004	:	
For: Surgical Drain with Positioning and	:	
Protective Features	:	

This is in response to the petition applicant filed on January 4, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, 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

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OCT 0 3 2005

MCDERMOTT, WILL & EMERY
Suite 3400
2049 Century Park East
Los Angeles CA 90067

In re Application of	:	
Ramez Emile Necola Shehada	:	
Serial No.: 10/776,022	:	DECISION ON PETITION
Filed: January 4, 2005	:	
For: Surgical Drain With Sensors for	:	
Differential Monitoring of Internal	:	
Condition	:	

This is in response to the petition applicant filed on January 4, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, 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, Director
Technology Center 3700

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KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND, MA 01778

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of :
E. Neil Lewis, et al. :
Application No. 10/776,029 : ON PETITION
Filed: February 10, 2004 :
Attorney Docket No. S0001-002004 :

This is a decision on the petition under 37 CFR 1.137(b), filed by December 28, 2004, to revive the above-identified application.

The application became abandoned for failure to fully respond to a Notice to File Missing Parts of Nonprovisional Application mailed May 7, 2004. The notice required the basic filing fee, an oath or declaration under 37 CFR 1.63, a surcharge under 37 CFR 1,16(e) and an abstract of the technical disclosure in compliance with 37 CFR 1.72(b). While the filing fee, an executed declaration and the requisite a surcharge were timely filed with an appropriate petition for extension of time on December 6, 2004, applicant did not include an abstract of the technical disclosure in compliance with 37 CFR 1.72(b) within the time period.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Initial Patent Examination (OIPE) for further review of the abstract filed December 28, 2004.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND, MA 01778

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DEC 12 2007

OFFICE OF PETITIONS

In re Application of	:	
E. Neil Lewis, et al.	:	
Application No. 10/776,029	:	DECISION ON PETITIONS
Filed: February 10, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. S0001-002004	:	AND UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 12, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The 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 Commissioner may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

In reviewing the chain of applications to which applicant is seeking a claim for priority, it is noted that this application improperly directly claims benefit of priority to provisional

Application Nos. 60/120,859 and 60/143,801, since these provisional applications were filed more than twelve months from the filing date of the present application. Petitioner is advised that every intermediate application must properly make a reference to the first (earliest) application and every application after the first application and before such 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. The following is a suggested format for claiming benefit of priority to the prior applications:

> This application is a continuation of Application No. 09/507,293, filed February 18, 2000, now Patent No. 6,690,464, which claims the benefit of U.S. provisional Application Nos. 60/120,859, filed February 19, 1999 and 60/143,801, filed July 14, 1999, which are all herein incorporated by reference.

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 or 37 CFR 1.76(b)(5)) to correct the above matter is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND, MA 01778

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APR 29 2008

OFFICE OF PETITIONS

In re Application of	:	
E. Neil Lewis, et al.	:	DECISION ON PETITION
Application No. 10/776,029	:	UNDER 37 CFR 1.78(a)(3) AND
Filed: February 10, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. S0001-002004	:	

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 30, 2008, 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 **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 the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2878 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/776,029	02/10/2004	2878	1620	S0001-002004	21	2

CONFIRMATION NO. 9061

CORRECTED FILING RECEIPT

Kristofer E. Elbing
187 Pelham Island Road
Wayland, MA 01778

OC000000029632348

Date Mailed: 04/29/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

E. Neil Lewis, Brookeville, MD;
David J. Strachan, Baltimore, MD;
Linda H. Kidder, Wolney, MD;

Power of Attorney:
Kristofer Elbing--34590

Domestic Priority data as claimed by applicant

This application is a CON of 09/507,293 02/18/2000 PAT 6,690,464
which claims benefit of 60/120,859 02/19/1999
and claims benefit of 60/143,801 07/14/1999

Foreign Applications

If Required, Foreign Filing License Granted: 05/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/776,029**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SPECTROSCOPIC INSTRUMENTS AND METHODS EMPLOYING ARRAY DETECTOR AND VARIABLE FILTERING

Preliminary Class

250

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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KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND, MA 01778

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APR 29 2008

OFFICE OF PETITIONS

In re Application of :
E. Neil Lewis, et al. :
Application No. 10/776,029 : ON PETITION
Filed: February 10, 2004 :
Attorney Docket No. S0001-002004 :

This is a decision on the petition, filed April 3, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **DISMISSED**.

Petitioner indicates that all the names of the assignees were not listed on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignees on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The instant request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to MALVERN INSTRUMENTS INCOPORATED **and** THE GOVERNMENT OF THE UNITED STATES OF AMERICA, AS REPRESENTED BY THE SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES, 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 The Government of the United States of America, as represented by The Secretary, Department of Health And Human Services was also an 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 and after issuance of the instant application into a patent, 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 adds THE GOVERNMENT OF THE UNITED STATES OF AMERICA, AS REPRESENTED BY THE SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES, as an assignee. *No certificate of correction will be issued which adds an assignee other than the assignee set forth in the instant request. A copy of this decision must accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in the instant request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Patent No. : 7,399,968 B2
Serial No. : 10/776,029
Inventor(s) : Lewis et al.
Issued : July 15, 2008
Title : **SPECTROSCOPIC INSTRUMENTS AND METHODS EMPLOYING ARRAY DETECTOR AND VARIABLE FILTERING**
Docket No. : **S0001-002004**

Re: Request for Reconsideration

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.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request to add Assignee.

Furthermore, Assignees' and/ or Co-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, which requires petition 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 B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300 ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND MA 01778

ecw

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HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

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OFFICE OF PETITIONS

In re Application of	:	
Tuomi, Mika Henrik	:	
Application No. 10/776,032	:	ON PETITION
Filed: February 10, 2004	:	
Attorney Docket No. BBOY-26,613	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and requisite fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ATTENTION OF KAREN A. FITZSIMMONS
MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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AUG 2 5 2004

OFFICE OF PETITIONS

In re Application of
John E. Fox et al
Application No. 10/776,042
Filed: February 10, 2004
Attorney Docket No. 12742.8USC1

:
:DECISION GRANTING FILING
:DATE OF February 10, 2004
:
:

This is a decision on the petition filed July 15, 2004, requesting that the above-identified application be accorded a filing date of February 10, 2004 rather than the presently accorded date of February 9, 2004.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on February 10, 2004 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express Mail Label No. EL 976595193US showing a stamped date of February 10, 2004. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal." Additionally, the other available evidence, the Internet USPS Express Mail Tracking and Delivery Confirmation, discloses that the package was deposited on February 10, 2004.

In view of the USPS receipt stamp of February 10, 1004, appearing on the same Express Mail label number as shown on the transmittal for the instant application, it is concluded that the application was deposited as "Express Mail" with the USPS on February 10, 2004.

The petition is **granted**.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (703) 305-8859.

This application is being referred to the Office of Initial Patent Examination for processing with a **filing date of February 10, 2004**, and for mailing of a corrected filing receipt.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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APR 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Dilip Tapadiya	:	
Application No. 10/776,060	:	DECISION ON PETITION
Filed: February 11, 204	:	TO WITHDRAW
Attorney Docket No. TAPADI.003C2	:	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 15, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael A. Guiliana on behalf of all attorneys of record who are associated with customer No. 20995.

All attorneys/agents associated with the Customer Number 20995 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 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: DILIP TAPADIYA
4 TRAFALGER
NEWPORT BEACH, CA 92660

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/776,060	02/11/2004	Dilip Tapadiya	TAPADI.003C2

CONFIRMATION NO. 2091

POWER OF ATTORNEY NOTICE

OC000000029272434

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 04/07/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/15/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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HOFFMAN WARNICK LLC
75 STATE STREET, 14TH FLOOR
ALBANY NY 12207

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OCT 1 5 2008

OFFICE OF PETITIONS

In re Application of
Ronald A. DINGMAN, et al
Application No. 10/776,071
Filed: February 11, 2004
Attorney Docket No. TOUG-0002

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 5, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by John W. Labatt on behalf of all attorneys of record.

All attorneys of record have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: RONALD A. DINGMAN
726 PENNSYLVANIA AVENUE
SCHENECTADY, NY 12303

cc: TOUGH TRAVELER LTD.
1012 STATE STREET
SCHENECTADY, NY 12307

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United States Patent and Trademark Office
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FROM DIRECTORS OFFICE

MAY 09 2008

TECHNOLOGY CENTER 2600

HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
HALF MOON BAY, CA 94019

In re Application of Graham R. F. Napier et al. Application No. 10/776,079 Filed: February 11, 2004 Attorney Docket No.: TRDB 1007-1US For: NEGOTIATION AND FULFILLMENT OF INSURANCE CONDITIONS AND RELEASE OF GOODS FOR EXPORT	DECISION ON PETITION UNDER 37 CFR §1.184(a)(2)

This is a decision on applicant's petition under 37 CFR 1. 184(a)(2) filed February 11, 2004 requesting acceptance of the color drawings filed February 11, 2004.

The petition is **GRANTED.**

In the petition filed February 11, 2004, requesting acceptance of the color drawings filed February 11, 2004, applicant provided three copies of the color drawings, black and white photocopies of the color drawings, and the fee set forth in 1.17(h). In addition, applicant amended the specification to state that "The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee." Finally, applicant states that the "color drawings are a practical medium by which to disclose the structure of multi-user systems and processes related to aspects of the invention."

37 CFR 1.184(a)(2) states: On rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. The color drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white in the printed patent. Color drawings are not permitted in international applications (see PCT Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary. Any such petition must include the following:

(i) The fee set forth in § 1.17(h);
(ii) Three (3) sets of color drawings;
(iii) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Applicant has complied with 37 CFR 1.184(a)(2), requirements (i), (ii), and (iii). Additionally, color drawings are the only practical medium by which to disclose the subject matter sought to be patented. Therefore, the petition to accept the color drawings filed February 11, 2004 is granted.

No further action regarding this decision is required by applicant. Since an office action was mailed on January 4, 2008, applicants period for reply continues to run from that date.

The petition is **GRANTED.**

Questions concerning this decision should be directed to C. Luke Gilligan at (571) 272-6770.

C. Luke Gilligan, Supervisory Patent Examiner
Patent Technology Center 3600
Telephone No.: (571) 272-6770

clg: 5/7/08

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BOURQUE & ASSOCIATES, P.A.
SUITE 301
835 HANOVER STREET
MANCHESTER NH 03104

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AUG 17 2006

OFFICE OF PETITIONS

In re Application of
Shane Record :
Application No. 10/776,080 : ON PETITION
Filed: February 11, 2004 :
Attorney Docket No: **WBELT-007XX** :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed May 8, 2006, to revive the above identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)".This is **not** a final agency decision.

This application became abandoned April 21, 2006 for failure to timely pay the issue fee in response to the Notice of Allowance mailed January 20, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

---

[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)).

Pursuant to 37 CFR 1.137(b) however, the instant petition lacks item (1) of the regulation, the issue fee in response to the Notice of Allowance.

While a Request for Continued Examination (RCE) with the appropriate fee and amendment as the submission required under 37 CFR 1.114 was filed, the response to the Notice of Allowance hasn't been satisfied. On revival, the filing of the RCE is not a substitute for paying the issue fee.

In view thereof, the issue fee is due before a petition can be granted. The application will therefore remain in an abandoned status until such time as the issue fee has been paid.

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

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
www.uspto.gov

BOURQUE & ASSOCIATES, P.A.
SUITE 301
835 HANOVER STREET
MANCHESTER, NH 03104

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SEP 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Shane Record	:	
Application No. 10/776,080	:	ON PETITION
Filed: February 11, 2004	:	
Attorney Docket No. WBELT-007XX	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 12, 2006, to revive the above-identified application. This is also a decision on the petition to withdraw from issue, filed September 12, 2006, which is being treated under 37 CFR 1.313(c)(2). See 1233 *Official Gazette* 54 (April 11, 2000).

The petition under 37 CFR 1.137(b) is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). The instant petition lack(s) item(s) 1.

The statute is clear that failure to timely pay the issue fee within three months of the mailing date of the Notice of Allowance and Issue Fee Due will result in abandonment of the application. In this case, the Notice of Allowance was mailed on January 20, 2006. Therefore, this application became abandoned by operation of law on April 21, 2006. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The petition does not comply with the requirements of 37 CFR 1.137(b).

Consequently, the petition under 37 CFR 1.313(c)(2) is also **DISMISSED**.

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

Any request for reconsideration of the decisions must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted; however, no further petition fee is required. The reconsideration request should include a cover letter entitled "Renewed Petition for Revive under 37 CFR 1.137(b) and Renewed Petititon to Withdraw from Issue" This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

BOURQUE & ASSOCIATES, P.A.
SUITE 301
835 HANOVER STREET
MANCHESTER, NH 03104

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MAY 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Shane Record	:	
Application No. 10/776,080	:	ON PETITION
Filed: February 11, 2004	:	
Attorney Docket No. WBELT-007XX	:	

This is a decision on the renewed petitions filed November 13, 2006 under 37 CFR 1.137(b) to revive the above-identified application and under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue.

The petitions are **GRANTED**.

A review of the record discloses that the application became abandoned for failure to pay the issue fee on or before April 20, 2006. On May 8, 2006 a petition under 37 CFR 1.137(b) was filed along with a Request for Continued Examination (RCE) under 37 CFR 1.114. The RCE was deemed improper and the petition was dismissed in a decision mailed August 17, 2006. Thereafter, on September 6, 2006, a renewed petition under 37 CFR 1.137 was filed, along with a petition to withdraw from issue under 37 CFR 1.313(c)(2). Both petitions were dismissed in a decision mailed September 13, 2006. In response, on November 13, 2006, petitioner renews the petition to revive under 37 CFR 1.137(b) and the petition to withdraw from issue under 37 CFR 1.313(c)(2).

The petition to revive satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $750; 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. The statement of unintentional delay is found in the original petition filed May 8, 2006. 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.*

Since petitioner has complied with 37 CFR 1.137(b), the application may be returned to a pending status. However, in view of petitioner's request to withdraw the application from issue, the application is hereby withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 13, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [2]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being forwarded to Technology Center AU 3651 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[2]The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

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

Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Dilip Tapadiya	:	
Application No. 10/776,083	:	DECISION ON PETITION
Filed: February 11, 2004	:	TO WITHDRAW
Attorney Docket No. TAPADI.003A	:	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 15, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael A. Guiliana 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 Dilip Tapadiya at the address indicated below.

There is an outstanding Office action mailed October 11, 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: **Dilip Tapadiya**
4 Trafalger
Newport Beach, CA 92660

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/776,083	02/11/2004	Dilip Tapadiya	TAPADI.003A

CONFIRMATION NO. 2371

POWER OF ATTORNEY NOTICE

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000028385057

Date Mailed: 02/20/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/15/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET, 14TH FLOOR
IRVINE CA 92614

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MAR 31 2008

In re Application of	:	
TAPADIYA, Dilip	:	
Application No. 10/776,085	:	DECISION ON PETITION
Filed: February 11, 2004	:	TO WITHDRAW
Attorney Docket No. **TAPADI.003C3**	:	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 15, 2007.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael A. Guiliana on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor Dilip Tapadiya at the 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: **DILIP TAPADIYA**
4 TRAFALGER
NEWPORT, CA 92660

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 C. Gilchrist
Dorsey & Whitney, LLP
Suite 3900
801 Grand Avenue
Des Moines, IA 50309

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JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Lyn Rosenboom	:	
Application No. 10/776,086	:	ON PETITION
Filed: February 10, 2004	:	
Attorney Docket No. 457009-3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2005, to revive the above-identified application.

In response to the Notice to File Missing Parts mailed May 7, 2004, petitioner hereby submits $750 for the petition to revive fee, an executed Oath/Declaration, an authorization to charge a $65 surcharge for the late filing of the Oath/Declaration, and the statement of unintentional delay.

As authorized, the $65 surcharge has been charged to petitioner's deposit account.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

This application is being referred to the Office of Initial Patent Examination, for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

MADAN, MOSSMAN & SRIRAM, P.C.
2603 AUGUSTA
SUITE 700
HOUSTON TX 77057

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of Sonnier et al. Application No. 10/776089 Filing or 371(c) Date: 02/11/2004 Title of Invention: CO-PILOT MEASUREMENT-WHILE-FISHING TOOL DEVICES AND METHODS	:	DECISION ON PETITION

This is a decision on the Petition to Withdraw Withholding of Abandonment, filed December 5, 2006. The petition is properly treated under 37 CFR 1.181(a). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final office action, mailed March 7, 2006. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on June 8, 2006. A Notice of Abandonment was mailed October 11, 2006.

The present petition

Applicant files the present Petition and asserts that a timely reply to the Office action was filed on June 23, 2006, including a request for a one (1) month extension of time and fee. In support of this assertion, Applicant includes a copy of the reply, along with a copy of an Auto-Reply Facsimile Transmission report from this Office acknowledging receipt of 16 pages from petitioner on June 23, 2006. A review of the copy of the reply filed with the petition reveals that it includes a Certificate of Transmission under 37 CFR 1.8 that the reply was sent on June 23, 2006. Applicant also files a copy of the Sending Unit Confirmation Report showing that 16 pages were transmitted to this Office on June 23, 2006.

Conclusion

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 extension of time fee has been charged Applicant's deposit account.

The application will be referred to Technology Center Art Unit 3672 for processing of the copy of the Response/amendment filed with the present petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

3-12-08

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,134,501
Inventor :Craig D. Johnson, et. al.
Issued :November 14, 2006
For : EXPANDABLE SAND SCREEN AND METHODS FOR USE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322 and 1.323.

The alleged error on the title page, item [60] continuation data, do not enter, there is no proper amendment. {per say examiner}.

In view of the foregoing, your request in is hereby denied.

Further correspondence concerning this matter should be filed and directed to decisions and Certificates of Correction Branch.

Eva James
For Mary Diggs
Certificates of Correction Branch
(703) 308-9390 ext. 124 or 125

Schlumberger Reservoir Completions
14910 Airline Road
Rosharon TX 77583

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1-15-08

Paper No.: ____

TO SPE OF : ART UNIT 3600

SUBJECT : Request for Certificate of Correction on Patent No.: 7134501 (10/776095

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.

David Bagnell

Please Check box to see if this request is to be enter

E.J.

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 124

Look into your e-dan

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**~~ Dismissed — State the reasons for denial below.

Comments:

Application was not amended w/in 1.78 time frame.

Applicant may get continuity data on first filing receipt is submitted w/ proper amendment

Mark Polutta - OPLA
MOP

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 04/21/2010

Applicant	: Rohit Chandra	: DECISION ON REQUEST FOR
Patent Number	: 7594011	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/776,100	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1091** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROBERT CURFISS
PO BOX 903
HUMBLE, TX 77347

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MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of Monroe :
Application No. 10/776,129 : Decision on Petition
Filing Date: February 11, 2004 :
Attorney Docket No. 121817.001.087 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2005, to revive the above-identified application.

The petition is **granted**.

Facts:

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 10, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice.

A five month extension of time was obtained and a reply were submitted on December 13, 2004.

Since the reply was incomplete, the application became abandoned as a matter of law as of midnight on December 10, 2004.

The petition under 37 CFR 1.137(b):

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 "Appointment of New Attorney" paper:

The address of record has been changed to the address on the paper filed December 14, 2005. However, Raffi Gostanian has not been added as a representative of record. Effective June 25, 2004, the Patent and Trademark Office discontinued accepting the appointment of associate attorneys.[1]

[1] See Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29,865 (May 26, 2004).

The Office of Initial Patent Examination will be informed of the instant decision so that it may take steps 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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JUN 2 2004

Office of the Director
Group 3600

ALFRED M. WALKER
225 OLD COUNTRY ROAD
MELVILLE, NY 11747-2712

In re application of	:	**DECISION ON PETITION**
Frank Fragnito	:	**TO MAKE SPECIAL**
Application No. 10/776,132	:	**(APPLICANT'S AGE)**
Filed: February 11, 2004	:	

For: POSITIVE ENGAGEMENT CONTINUOUSLY VARIABLE TRANSMISSION

This is a decision on the petition submitted on February 11, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Fragnito indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 05/26/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA CA 90404

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Fong :
Application No. 10/776,145 : DECISION
Filed/Deposited: 10 February, 2004 :
Attorney Docket No. :
75144-011900/18291US01

This is a decision on the petition filed on 1 December, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

As noted herein, the Revocation/Power of Attorney submitted on 24 October, 2007, was not entered. As discussed below, it appears that the reason for non-entry was that the paper submitted in lieu of a Certificate pursuant to 37 C.F.R. §3.73(b) was insufficient in that it failed to satisfy the requirements of the regulation as discussed at MPEP §324, which provides in pertinent part:

***

> *The assignee's ownership may be established under 37 C.F.R. §3.73(b) by submitting to the Office, in the Office file related to the matter in which action is sought to be taken:*
>
> *(A) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is, submitted for recordation pursuant to 37 C.F.R. §3.11; or*
>
> *(B) a statement specifying, by reel and frame number, where such evidence is recorded in the Office.*

***

As a result, the record does not reflect that Petitioner herein was properly empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding

this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

Petitioner's alternative is to file a petition pursuant to 37 C.F.R. §1.137(b) with fee, reply and statement of unintentional delay, as discussed below.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to satisfy—or to be able to satisfy—the showing requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

For reference: Petitioner's attentions are directed to the guidance set forth in the Commentary at MPEP §711.03(c)(I)—and with particularity to the requirements therein including statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (The requirements of the regulations at 37 C.F.R. §1.181 further require that a Petitioner seek relief within two (2) months of the act complained of.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action (copy enclosed) mailed on 20 March, 2008, with reply due absent extension of time on or before 20 June, 2008.

The application went abandoned by operation of law after midnight 20 June, 2008.

The Office mailed the Notice of Abandonment on 1 October, 2008.

On 1 December, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 seeking withdrawal of the holding of abandonment and indicating the basis of his averment the non-receipt of the final Office action and averring that notwithstanding a Revocation/Power of Attorney that was filed on 24 October, 2007, the Office mailed the 20 March, 2008, final Office action nonetheless to the prior Counsel. That result occurred, it appears, because Petitioner failed to satisfy the requirements of the submission of the Revocation/Power of Attorney, which include satisfaction of the requirements of 37 C.F.R. §3.73(b), which provide in pertinent part:

***

> ***37 CFR 3.73. Establishing right of assignee to take action.***
>
> (a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application or registration, unless there is an assignment.
>
> (b)(1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> > (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the submission of the documentary evidence must be accompanied by 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).
>
> (2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

(c) For patent matters only:

(1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.

(2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

***

Thus, from the appearance of the paper submitted in lieu of a formal Certificate pursuant to 37 C.F.R. §3.73(b), there is no specification of chain of title or of reel/frame recordation data.

Thus, Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I) to satisfy the mandated showings pursuant to 37 C.F.R. §1.181:

***

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.[1]

[1] *See*: MPEP §711.03(c) (I)(A).

***

Petitioner provides fragmentary pages of an amendment submitted on 17 December, 2007, containing Petitioner's address, rather than that of former Counsel, as Petitioner's demonstration that he informed the Office of the proper correspondence address. However, Petitioner, as one registered to practice before the Office is aware that necessary information such as a change of address may not be buried in another paper, but rather must be submitted as a separate paper.[2] Moreover, a revocation/power of attorney with a proper Certificate pursuant to 37 C.F.R. §3.73(b), and not a simple change of address, was required here

(It is noted that a proper reply to the final Office action will not be a proper reply to the outstanding final Office action. Petitioner, as one registered to practice before the Office, knows that an amendment is not as of right and not a proper reply[3] to a final Office action if it does not *prima facie* place the application in condition for allowance. A request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 is one of the possible proper replies herein.)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

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).

---

[2] *See*: 37 C.F.R. §1.4(c).

[3] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

[4] 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).

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 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 reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

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[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc:
MCANDREWS HELD & MALLOY LTD.
500 WEST MADISON STREET/34TH FLOOR
CHICAGO, IL 60661

---

[5] 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.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,145	02/10/2004	Colin Fong	75144-011900	3110

33717 7590 03/20/2008
GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA, CA 90404

EXAMINER
OMOTOSHO, EMMANUEL

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
03/20/2008	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.

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	(Colin Fong)	75144-011900	3110

[illegible]
[illegible]
[illegible]
[illegible]

[illegible]
[illegible]

[illegible]	[illegible]
[illegible]	

[illegible]	[illegible]
[illegible]	[illegible]

[illegible]

The time period for reply, if any, is set in the attached communication.

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

Office Action Summary	Application No.	Applicant(s)	
	10/776,145	FONG, COLIN	
	Examiner	Art Unit	
	EMMANUEL OMOTOSHO	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 17 December 2007.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-45 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-45 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-32,40-45 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2003/0119581 to Cannon et al. "Cannon".

3. Claim 1,14,19,21,22,24,44, : Cannon teaches a gaming machine system which includes a system controller; a plurality of gaming machines linked to the system controller (fig 3), each gaming machine having a first display and a game controller arranged to control images of symbols displayed on the first display (fig 3-4), the game controller being arranged to play a game wherein at least one random event is caused to be displayed on the first display (fig 4) and, if a predefined winning event occurs, the machine awards a prize (par 34,48); a second display; and a feature game where, during play of the feature, feature images associated with the feature game are displayed on the second display (fig 4); and a remote display to which each of the gaming machines is connected, the remote display being visible to a player playing any one of the gaming machines connected to the remote display (par 46, 53), at least certain of the feature images occurring on the second display of a said. gaming machine

during the playing of the feature game on that gaming machine cooperating with at least certain different feature images displayed with a different representation (i.e. larger) on the remote display to communicate a feature an outcome of the feature game on the gaming machine (par 46, 53, i.e. the game images of the bonus game is sent to the remote display), wherein there are a plurality of different outcomes possible from the feature game and feature images displayed on the remote display during play of the feature game represent that there are a plurality of possible outcomes of the feature game (par 49 and 54), and wherein the determination of a feature outcome for one of the gaming machines affects a subsequent determination of a feature outcome for another one of the gaming machines (par 60 i.e. the system can eliminate an award outcome from the bonus game once a player achieves that outcome and par 74, i.e. a players success outcome of the previous game affects the player's progress in the subsequent game).

4. Claim 2,23: in which a predetermined trigger condition, triggered by one of the game controller and the system controller, occurring during playing of a base game on any one of the gaming machines causes the feature game to commence, the trigger condition being configured so that, when it occurs on any one of the gaming machines, all active gaming machines enter the feature game, wherein the feature outcome for each of the gaming machines is dependent on both a selection made by a player during play of the feature game and any earlier determinations of a feature outcome on another one of the active gaming machines (par 48, 49, par 60).

5. Claim 3: in which the feature game is an ongoing feature where, whenever a trigger condition, triggered by one of the game controller and the system controller, occurs on any one gaming machine to trigger the feature game, the feature game is played on that gaming machine, including the display of the feature images on the second display and the display of the at least certain different feature images on the remote display, any other gaming machines continuing with their respective games until the feature game is triggered on said any other gaming machines (par 69, i.e. stand alone machine).

6. Claim 4 : wherein when the feature game is initiated, an initial display on the first display of the gaming machine includes icons relating to the feature images on the second display of that gaming machine the icons being selectable by the player to directly affect both the content of the feature images on the second display and the at least certain different feature images on the remote display (fig 4,5).

7. Claim 5,15: in which each gaming machine includes a selector operable by a player of the feature game to enable the player to make at least one selection associated with the feature game, the selection affecting which one of the plurality of different outcomes occurs in the feature game, and wherein the same selections are available at each of the gaming machines when the feature game is played and wherein a prize associated with a said selection is awarded at the first gaming machine to provide the feature game and have the selector operated to select that selection (par 56, 58).

8. Claim 6,29: in which the feature game involves playing for prizes associated with the remote display, wherein the selection directly affects which one of a plurality of possible prizes is awarded and wherein after prize has been won from a particular selection, the prize subsequently associated with that same selection is determined according to a random selection process (par 57 and par 60).

9. Claim 7,30: in which representations of the prizes are arranged, at least initially, in a concealed condition on the remote display and wherein the selection by the player is a selection of a said prize that is in a concealed condition, the selection of that prize resulting in the prize being revealed and awarded (par 57, i.e. bonus markers are invisible and visible when a player selects the location).

10. Claim 8,31: in which prizes are associated with predetermined, hidden places on a representation of a location displayed on the remote display (par 57).

11. Claim 9: in which the images appearing at least on the first display of each participating gaming machine are synchronized with the images appearing on the remote display (par 46).

12. Claim 10,32: in which a representation of the location similar to that displayed on the remote display is displayed on the first display and the player, using the selector, selects a position on the representation of the location which the player believes will result in a prize winning outcome of the feature game (par 46, 53.57).

13.

14. Claim 11: in which one of the game controller and the system controller causes a prize to be replaced whenever any prize is revealed during playing of the feature game (par 60, i.e. prizes regenerated once awarded to player).

15. Claim 12: in which the feature game comprises a fixed set of prizes (par 58,59).

16. Claim 13: in which the fixed set of prizes includes progressive jackpot prizes (par 58).

17. Claim 16: in which the selector is a touch-screen facility of the first display (par 50).

18. Claim 17: which includes a cabinet in which the first display is mounted (fig 4).

19. Claim 18: which includes a top box mounted on the cabinet, the second display being mounted in the top box (fig 4).

20. Claim 20: in which the base game preceding the feature game is a spinning reel game (fig 4).

21. Claim 25: in which the system controller randomly selects a number representative of a monetary amount falling in a fixed range between a lower value and an upper value of a progressive jackpot and when the progressive jackpot value is incremented to that value by one of the linked gaming machines, the feature game is initiated by the system controller and all gaming machines of the system being played at that time commence the feature game (par 51).

22. Claim 26: which includes setting other conditions with which a player must comply in order to be eligible to participate in the feature game (par 49).

23. Claim 27: in which the feature game is an ongoing feature where, whenever a trigger condition occurs on any one gaming machine to trigger the feature game, the feature game commences on that gaming machine, any other gaming machines continuing with the base game until the feature game is triggered on said any other gaming machines (par 49,50).

24. Claim 28: which includes displaying on the second display of each gaming machine a plurality of feature images and, when the trigger condition occurs in the base game and the feature game is initiated, displaying as an initial display on the first display of the gaming machine icons relating to the feature images on the second display of that gaming machine (fig 4).

25. Claim 40:A gaming machine system which includes a plurality of gaming machines including a first display and a second display and includes a remote display common to the plurality of gaming machines (fig 4,par 46), each gaming machine providing a base game that is played according to a random selection process (abstract), the base game involving the award of a prize on the occurrence of a winning event during play of the base game (par 34), each gaming machine further providing a feature game that is common to the plurality of gaming machines (abstract), wherein during play of the feature game on a said gaming machine: images are caused to be displayed on the primary game representing a plurality of choices available to a player in the feature game (par 50), the gaming machine including a selector allowing the player to select one of the plurality of choices (par 55,56); following selection of one of the plurality of choices, a sequence of images is displayed on the first display that

represent the result of the selection made using the selector (par 56, fig 4), the sequence of images representing that the selection affects the outcome of the feature game (par 56, fig 4, i.e. the movement of each player affects the outcome of the play), at least a portion of the sequence of images displayed on the first display is duplicated on the remote display (par 46), and the second display shows an enlarged representation of at least a portion of the sequence of images displayed on the first display (par 46, i.e. remote display is the same as the second display).

26. Claim 41: wherein during play of the feature game on the gaming machine images are caused to be displayed on the first display representing a second plurality of choices available to a player in the feature game, the gaming machine including a selector allowing the player to select one of the plurality of choices, wherein the second plurality of choices are customizations of the sequence of images on at least one of the displays that do not have an effect on, and are not represented as affecting, the outcome of the feature game (par 50, 54, 56, i.e. once the player qualifies, the player is sent a message to activate the bonus game. Once activated, allows the player to select one of the play markers which customizes the appearance of the player as s/he moves through the game. The type of marker selected as no effect on the outcome of the game).

27. Claim 42: wherein the images displayed on the remote display include a plurality of concealed prizes each arranged on the display in different locations, wherein the selector allows a player to select a said location and the same said locations are selectable using the selector of any of the plurality of gaming machines when that

gaming machine is providing the feature game, and wherein after a location has been selected and a prize awarded as part of the feature game associated with that selection, then a prize subsequently awarded as part of the feature game associated with the same selection is determined according to a random selection process (par 57,60).

28. Claim 43: wherein a plurality of the gaming machines can simultaneously provide the feature game and wherein when there is simultaneous provision of the feature game on a plurality of the gaming machines, the remote display simultaneously displays distinct representations associated with each gaming machine providing the feature game (fig 4, par 56).

29. Claim 45: wherein the representations of the feature game that are simultaneously displayed on the remote display comprise representations of a character (fig 4, par 56).

30.

Claim Rejections - 35 USC § 103

31. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

32. Claims 33-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cannon.

33. Claim 33: Cannon teaches all the present invention as shown above but fail to teach displaying the movement of the player icon on the first display.

34. Cannon teaches displaying a scene on the second display (fig 4) representative of the selected icon moving towards the location (fig 4, i.e. icon moving towards the bonus marker) which is displayed on the remote display (par 46)

35. However, further displaying this same information on another display device such as the first display is a matter of design choice. It has been shown above that an ordinary skilled artisan is capable of displaying game information on a display device. Choosing which display device to display the information is a matter of an obvious design choice well within the skill level of an ordinary skilled in the art.

36. Claim 34: which includes displaying a representation of the selected icon arriving at the selected position at the location and revealing the representation of the prize (par 55,56, fig 4).

37. Claim 35: which includes selecting the prize from a fixed set of prizes randomly distributed by one of the game controller and the system controller at the positions of the location (par 51).

38. Claim 36: which includes replacing a prize whenever any prize is revealed during playing of the feature game (par 60).

39. Claim 37: which includes, whenever any prize is revealed, replacing a prize of the same value as the revealed prize at the location but at a different position and, once again, hidden from view (par 60, par 57).

40. Claim 38: Cannon fail to teach once a selection of a prize has been made, again randomly distributing all outcomes over all the positions of the location.

41. Cannon teaches using a random system to randomly distribute bonus awards (par 60).

42. It would have been obvious to one of ordinary skilled in the art at the time of the invention to randomly re distribute bonus awards anytime a player wins an award. This would provide a more exciting by adding more suspense to the game.

43. Claim 39: which includes randomly shuffling the set of prizes so that the next outcome is selected from a new distribution of prizes about the positions of the location (par 60).

44. Claims 40-45 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Cannon.

45. Claim 40:Cannon teaches a gaming machine system which includes a plurality of gaming machines including a first display and a second display and includes a remote display common to the plurality of gaming machines (fig 4,par 46), each gaming machine providing a base game that is played according to a random selection process (abstract), the base game involving the award of a prize on the occurrence of a winning event during play of the base game (par 34), each gaming machine further providing a feature game that is common to the plurality of gaming machines (abstract), wherein during play of the feature game on a said gaming machine: images are caused to be displayed on the primary game representing a plurality of choices available to a player in the feature game (par 50), the gaming machine including a selector allowing the player to select one of the plurality of choices (par 55,56); following selection of one of the plurality of choices, a sequence of images is displayed on the first display that

represent the result of the selection made using the selector (par 56, fig 4), the sequence of images representing that the selection affects the outcome of the feature game (par 56, fig 4, i.e. the movement of each player affects the outcome of the play), at least a portion of the sequence of images displayed on the first display is duplicated on the remote display (par 46)

46. Cannon fail to teach a second display that shows an enlarged representation of at least a portion of the sequence of images displayed on the first display.

47. However, Cannon teaches displaying the at least a portion of the sequence of images displayed on a large remote display offering an enlarged representation of said images (par 46).

48. It would have been obvious to one of ordinary skilled in the art to have a first display that shows an enlarged representation of at least a portion of the sequence of images displayed on the first display.

49. Claim 41: Cannon teaches wherein during play of the feature game on the gaming machine images are caused to be displayed on the first display representing a second plurality of choices available to a player in the feature game, the gaming machine including a selector allowing the player to select one of the plurality of choices, wherein the second plurality of choices are customizations of the sequence of images on at least one of the displays that do not have an effect on, and are not represented as affecting, the outcome of the feature game (par 50, 54, 56, i.e. once the player qualifies, the player is sent a message to activate the bonus game. Once activated, allows the player to select one of the play markers which customizes the appearance of the player

as s/he moves through the game. The type of marker selected as no effect on the outcome of the game).

50. Claim 42: wherein the images displayed on the remote display include a plurality of concealed prizes each arranged on the display in different locations, wherein the selector allows a player to select a said location and the same said locations are selectable using the selector of any of the plurality of gaming machines when that gaming machine is providing the feature game, and wherein after a location has been selected and a prize awarded as part of the feature game associated with that selection, then a prize subsequently awarded as part of the feature game associated with the same selection is determined according to a random selection process (par 57,60).

51. Claim 43: wherein a plurality of the gaming machines can simultaneously provide the feature game and wherein when there is simultaneous provision of the feature game on a plurality of the gaming machines, the remote display simultaneously displays distinct representations associated with each gaming machine providing the feature game (fig 4, par 56).

52. Claim 45: wherein the representations of the feature game that are simultaneously displayed on the remote display comprise representations of a character (fig 4, par 56).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMMANUEL OMOTOSHO whose telephone number is (571)272-3106. The examiner can normally be reached on m-f 10-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EO

/Ronald Laneau/
Supervisory Patent Examiner, Art Unit 3714
03/13/08

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

MCANDREWS HELD
& MALLOY LTD.
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Fong :
Application No. 10/776,145 : DECISION
Filed/Deposited: 10 February, 2004 :
Attorney Docket No. :
75144-011900/18291US01

This is a decision on the petition filed on 27 April, 2009, to revive under 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay.

It is noted that a Revocation/Power of Attorney, accompanying certificate pursuant to37 C.F.R. §3.73(b) and a Notice of Change of Address were filed on 27 Aril, 2007, concurrently with the petition. It also is noted, however, that while the Revocation/Power of Attorney contains an identifying Customer Number 23,446, the Notice of Change of Address contains no customer number data <u>and</u> no specified address. Therefore, the Office places Petitioner on Notice that the data in the Revocation/Power of Attorney is being looked to as the designation of correspondence address.

Further, 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.[1] In the event that such an inquiry has not been made, Petitioner <u>must</u> 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

[1] See 37 C.F.R. §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).

petition pursuant to 37 C.F.R. §1.137(b) was unintentional, Petitioner must notify the Office.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners attentions always are directed to the Commentary at MPEP §711.03(c) for guidance as to satisfying the requirements for relief under 37 C.F.R. §1.137.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action (copy enclosed) mailed on 20 March, 2008, with reply due absent extension of time on or before 20 June, 2008.

The application went abandoned by operation of law after midnight 20 June, 2008.

The Office mailed the Notice of Abandonment on 1 October, 2008.

On 1 December, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 seeking withdrawal of the holding of abandonment and indicating the basis of his averment the non-receipt of the final Office action and averring that notwithstanding a Revocation/Power of Attorney that was filed on 24 October, 2007, the Office mailed the 20 March, 2008, final Office action nonetheless to the prior Counsel. That result occurred, it appears, because Petitioner failed to satisfy the requirements of the submission of the Revocation/Power of Attorney, which include satisfaction of the requirements of 37 C.F.R. §3.73(b). There was no specification of chain of title or of reel/frame recordation data. And Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I) to satisfy the mandated showings pursuant to 37 C.F.R. §1.181. Petitioner provided fragmentary pages of an amendment submitted on 17 December, 2007, containing Petitioner's address, rather than that of former Counsel, as Petitioner's demonstration that he informed the Office of the proper correspondence address. However, Petitioner, as one registered to practice before the Office is aware that necessary information such as a change of address may not be buried in another paper, but rather

must be submitted as a separate paper.[2] Moreover, a revocation/power of attorney with a proper Certificate pursuant to 37 C.F.R. §3.73(b), and not a simple change of address, was required. The petition was dismissed on 27 February, 2009.

On 27 April, 2009, Petitioner submitted a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement and an explanation of the unintentional delay and a reply was in the form of A request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114—so satisfying the regulatory requirements consistent with the guidance in the Commentary at MPEP §711.03(c).

As indicated above, 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.[3] *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 C.F.R. §1.137(b) was unintentional, Petitioner ***must*** *notify the 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.

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.[4]

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).[5]

---

[2] *See*: 37 C.F.R. §1.4(c).

[3] See 37 C.F.R. §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).

[4] 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).

[5] 35 U.S.C. §133 provides:

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

As to Allegations of
Unintentional Delay

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3714 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

---

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.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Telephone inquiries 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[7]) 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

[7] 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.

32692
Customer Number

Patent
Case No.: 59373US002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:	CONNER, ARLIE R.		
Patent No.:	7300177	Application No.:	10/776152
Dated:	November 27, 2007	Confirmation No.	3103
Title:	ILLUMINATION SYSTEM HAVING A PLURALITY OF LIGHT SOURCE MODULES DISPOSED IN AN ARRAY WITH A NON-RADIALLY SYMMETRICAL APPERTURE		

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR § 1.322 AND 1.323

Commissioner for Patents
Office of Publication
Attn: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

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: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

July 9, 2008 /Judy Knutson/
Date Signed by: Judy Knutson

Dear Sir:

It is respectfully requested that a Certificate of Correction be issued in connection with the above-identified patent. The required text is submitted on the attached form.

In the drawings, Sheet 8, please add Fig. 10, per Applicant's Amendment dated January 27, 2006 and accepted by Examiner per the Office Action Summary dated May 10, 2006.

The errors are attributable to both the Applicant(s) and the Patent and Trademark Office.

Fees

☒ Any required fee will be made at the time of submission via EFS-Web. In the event fees are not or cannot be paid at the time of EFS-Web submission, please charge any fees under 37 CFR § 1.20(a) which may be required to Deposit Account No. 13-3723.

☐ Please charge any fees under 37 CFR §§ 1.20(a), 1.16 and 1.17 which may be required to Deposit Account No. 13-3723. (One copy of this sheet marked duplicate is enclosed.)

☒ Please charge any additional fees associated with the prosecution of this application to Deposit Account No. 13-3723. This authorization includes the fee for any necessary extension of time under 37 CFR § 1.136(a). To the extent any such extension should become necessary, it is hereby requested.

☒ Please credit any overpayment to the same deposit account.

Respectfully submitted,

July 9, 2008
Date

By: /Jay R. Pralle/
Jay R. Pralle, Reg. No.: 52,131
Telephone No.: 651-733-6750

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 7300177

DATED: November 27, 2007

FIRST NAMED INVENTOR: CONNER, ARLIE R.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

/W.C./

Drawings

Add Fig. 10 on drawing sheet 8 (attached).

/W.C./

Column 4

Line 38, After "colors." add the following paragraph - -

; and

Figure 10 is a schematic plan view of the surface of a DMD type light valve showing the orientation of the hinges of the individual pixels. - -

/W.C./

Column 5

Line 67, After "contrast." add the following paragraph - -

Fig. 10 illustrates a light valve 120 in the form of a deformable mirror device (hereinafter referred to as "DMD") having an array of reflective pixels 122. Each pixel 122 is mounted so as to be pivotable about torsion hinges 124 which are located at two diagonal corners of each pixel 122, thus defining a pivot axis. In operation when an appropriate ON voltage is applied to pixel 122, the upper lefthand corner 126 of pixel 122 will move upwardly from the plane of the DMD 120 while the lower righthand corner 128 will move downwardly. Similarly, when an OFF voltage is applied, pixel 122 will pivot about torsion hinges 124 so that corner 126 moves downwardly and corner 128 moves upwardly. Thus the ON and OFF positions comprise two distinct movements of each pixel 122. Generally, pixels 122 can be pivoted by 10 degrees to either side of planar. In the ON position, the incident illumination is reflected into the aperture of a projection lens. In the OFF position, the incident illumination is reflected outside the aperture of the projection lens and thus does not reach the viewing screen. - -

/W.C./

Column 13

Line 8, After "cation" insert - - . - -.

/William Carter/ 10/14/2008

MAILING ADDRESS OF SENDER:

PATENT NO. 7300177

OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
3M CENTER - P.O. BOX 33427
SAINT PAUL, MINNESOTA 55133-3427

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 7300177

DATED: November 27, 2007

FIRST NAMED INVENTOR: CONNER, ARLIE R.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

/W.C./ Column 14
Line 55, Delete "Cartesian" and insert - - cartesian - -, therefor.

/W.C./ Column 16
Line 3, In Claim 3, after "matches" delete ",".
Line 28, In Claim 9, after "form" insert - - a - -.

Column 18
/W.C./ Line 12, In Claim 32, delete "thud" and insert - - third - -, therefor.
Line 35, In Claim 37, after "recited" delete ",".

/William Carter/ 10/14/2008

MAILING ADDRESS OF SENDER:

PATENT NO. 7300177

OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
3M CENTER - P.O. BOX 33427
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AUG 30 2005

TECHNOLOGY CENTER 3600

SCHLUMBERGER RESERVOIR COMPLETIONS
14910 AIRLINE ROAD
ROSHARON, TX 77583-1590

In re Patent No. JOHNSON ET AL.
Issue Date: April 5, 2005
Appl No.: 10/776,153
Filed: February 11, 2004
For: CREATING AN UNDERBALANCE CONDITION IN A WELLBORE

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed April 18, 2005 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

David J. Bagnell
Supervisory Patent Examiner
Art Unit 3672
Technology Center 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DATE: August 29, 2005
TO: Certificates of Correction Branch
FROM: David J. Bagnell
SPE, Art Unit 3672
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,874,579 as specified on the attached Certificate.

David J. Bagnell, SPE
Art Unit 3672

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,874,579
Patented: April 5, 2005

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Ashley B. Johnson	Cambridge, (GB)
Lawrence A. Behrmann	Houston, TX (US)
Wenbo Yang	Sugarland, TX (US)
Fokko Harm Cornelis Doornbosch	Sola (NL)
Ian C. Walton	Sugarland, TX (US)

David J. Bagnell
Supervisory Patent Examiner
Art Unit 3672

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 30 2005

TECHNOLOGY CENTER 3600

SCHLUMBERGER RESERVOIR COMPLETIONS
14910 AIRLINE ROAD
ROSHARON, TX 77583-1590

In re Patent No. JOHNSON ET AL.	
Issue Date: April 5, 2005	**DECISION GRANTING**
Appl No.: 10/776,153	**PETITION**
Filed: February 11, 2004	*37 CFR 1.324*
For: CREATING AN UNDERBALANCE CONDITION IN A WELLBORE	

This is a decision on the petition filed April 18, 2005 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

David J. Bagnell
Supervisory Patent Examiner
Art Unit 3672
Technology Center 3600

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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 07/09/2010

Applicant	: Bart Gerard Boucherie	: DECISION ON REQUEST FOR
Patent Number	: 7641287	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/776,166	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **517** 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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GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

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JAN 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Green et al.	:	
Application No. 10/776,209	:	DECISION ON PETITION
Filed: February 12, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. PDI-40	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed August 17, 2006, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I and on (b) Infringement as set forth in M.P.E.P. § 708.02, Section II.

The petitions are **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section I: Manufacture, 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) 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 statement 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 instant petition fails to meet the requirements set forth above for special status based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I, because it lacks a statement that explicitly includes the language in item (B).

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 instant petition fails to meet the requirements set forth above for special status under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, because it lacks a statement that conforms to items (B) and (C), as noted above.

This lack of meeting the requirements of 37 CFR 1.102(d) and MPEP § 708.02, Sections I and II, as set forth above, does not permit the applicant to enjoy the benefit of advanced examination.

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 Ramesh Krishnamurthy at 571-272-4914, or to the undersigned at 571-272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1623 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA, CA 90404

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JUN 07 2007

OFFICE OF PETITIONS

In re Application of
Green et al
Application No. 10/776,209
Filed: February 12, 2004
Attorney Docket No. PDI-40

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(d)

This is a decision on the Request for Renewed Petition to Make Special under 37 CFR 1.102(d), filed February 8, 2007, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. Section 708.02, Section I, and on (b) Infringement as set forth in M.P.E.P Section 708.02, Section II.

Based on prospective manufacture, 37 CFR 102(d), as set forth in M.P.E.P. Section I, the petition is **GRANTED.**

The request under 37 CFR 102(d), as set forth in M.P.E.P 708.02, Section II, is rendered moot.

A grantable petition to make an application special under 37 CFR 1.102(d), MPEP § 708.02, Section I: Manufacture, 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) 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 statement 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.

Additionally, 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 is accompanied by a declaration by Peter J. Gluck, Reg. No. 38,022, and complies with the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Thurman K. Page at 571-272-0602.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1623 for action on the merits commensurate with this decision.

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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G. DONALD WEBER, JR.
18442 TAFT AVE
VILLA PARK, CA 92861

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Green et al.	:	DECISION ON PETITION
Application No. 10/776,209	:	TO WITHDRAW
Filed: February 12, 2004	:	FROM RECORD
Attorney Docket No. 41914.710/P0033870.00	:	

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, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on August 17, 2006 the power of attorney to G. Donald Weber, Jr. was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Medtronic
Attn: Noreen C. Johnson, IP Legal Department
2600 Sofamor Danek Drive
Memphis TN 38132

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Alexandria, VA 22313-1450
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MEDTRONIC
ATTN: NOREEN C. JOHNSON, IP LEGAL DEPARTMENT
2600 SOFAMOR DANEK DRIVE
MEMPHIS TN 38132

MAILED
OCT 19 2009
OFFICE OF PETITIONS

In re Application of	:	
Green et al.	:	
Application No. 10/776,209	:	DECISION ON PETITION
Filed: December 12, 2004	:	
Attorney Docket No. 41914.710 / P0033870.00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed February 25, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 26, 2009. A Notice of Abandonment was mailed September 11, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114 (previously filed March 31, 2009); (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

The address given on the petition differs from the new address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center 3754 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment previously filed March 31, 2009.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Julie M. Nickols
Haynes and Boone, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

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Paper No.

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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JAN 19 2005

OFFICE OF PETITIONS

In re Application of :
Otsuki et al. :
Application No. 10/776,248 : DECISION ON PETITION
Filed: February 12, 2004 :
Atty Docket No. 392.1872 :

This is a decision on the PETITION filed December 16, 2004, requesting that the Notice mailed October 18, 2004 be withdrawn and the application be accorded a filing date of February 12, 2004, with FIG. 13 as a part of the original application disclosure.

The application was deposited on February 12, 2004. However, on October 18, 2004, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date; however, figure 13 described in the specification appeared to have been omitted.

In response, the present petition was filed. Applicants state that the allegedly omitted FIG. 13 was in fact deposited with the non-provisional application papers. Applicants base this assertion on the fact that a corresponding FIG. 13 (with Japanese text) of the corresponding Japanese Priority Application 2003-041249 filed February 19, 2003 was filed concurrently with the subject U.S. application. Applicants submit with the petition a copy of FIG. 13 with English text.

The application file is the official record of papers received in an application. A review of the record confirms that 10 sheets of drawings were received on filing. Drawing sheet 10/11 containing FIG. 13 was not among the application papers received on February 12, 2004, as that drawing sheet is not in the application file. Further, applicants have not submitted evidence to show that Drawing sheet 10/11 containing FIG. 13 (with English text) was deposited on February 12, 2004. In fact, applicants do not dispute its omission, but rather rely on the presence of another drawing sheet containing identical content (with Japanese text) for entry of FIG. 13. Thus, the Notice mailed October 18, 2004 stating that FIG. 13 appeared to have been omitted from the application was properly mailed and will not be withdrawn.

Nonetheless, the record confirms that the application papers, deposited February 12, 2004, included the priority document, which contained eleven (11) sheets of drawings (including sheet 10/11 containing FIG. 13). The drawing sheet containing FIG. 13 submitted on petition is not identical to the drawing sheet containing FIG. 13 in the priority document submitted February 12, 2004. The drawing in the priority document is in the Japanese language. The drawing sheet containing FIG. 13 in the priority document will be construed as the drawing sheet containing FIG. 13 for this application for filing date purposes.

To the extent indicated herein, the petition is GRANTED.

The petition fee will not be refunded since the present petition and petition fee were necessary in view of applicant's filing error.

The application file will be returned to the Office of Initial Patent Examination for

- reprocessing with a filing date of February 12, 2004, using the one (1) sheet of drawings containing FIG. 13 in the priority document filed February 12, 2004, and the ten (10) sheets of drawings containing FIGS. 1-12, 14 filed on February 12, 2004, and an indication in Office records that eleven (11) sheets of drawings were present on filing;
- and review of the drawing sheet containing FIG. 13 (with English text) filed December 16, 2004, as a replacement drawing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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JUL 0 8 2004
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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of :
Engelland, et al. : DECISION ON PETITION
Application No. 10/776,303 :
Filed: February 10, 2004 :
Atty. Dkt. No.: 758.1505USI1 :

This decision is in response on the "REQUEST FOR CORRECTED FILING RECEIPT," filed May 24, 2004. This request is being treated under 37 CFR 1.10(c) to accord the above-identified application a filing date of February 10, 2004.

Petitioner alleges that the application was deposited in Express Mail service February 10, 2004. As supporting evidence, petitioner has provided a copy of an Express Mail label bearing tracking number EL976593878US (the same Express Mail number found on the application transmittal letter accompanying the original application papers located in the official file) and a "date-in" of February 9, 2004[1]. A review of the USPS "Track & Confirm" database, copy attached herewith, indicates that a package bearing Express Mail, label No. EL976593878US was accepted by the USPS on February 10, 2004 and delivered to the United States Patent and Trademark Office on February 12, 2004.

In view of the above, the petition under 37 CFR 1.10(c) to accord the above-identified application a filing date of February 10, 2004 is hereby **GRANTED**.

No fee is due in connection with this petition.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of February 10, 2004.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of USPS Track/Confirm Printout

[1] The label also bears a stamped receipt date of February 10, 2004.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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NOV 29 2007

OFFICE OF PETITIONS

In re Application of

TAPADIYA, Dilip
Application No. 10/776,309
Filed: February 11, 2004
Attorney Docket No. **TAPADI.003C1**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 15, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael A. Guiliana on behalf of all attorneys of record who are associated with customer No. 20995. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Dilip Tapadiya at the address indicated below.

There is an outstanding Office action mailed October 09, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DILIP TAPADIYA**
4 TRAFALGER
NEWPORT BEACH, CA 92660

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/13/09

TO SPE OF : ART UNIT 1755 (1700)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/776,339 Patent No.: 7,189,340
Attn: Carol Koslow

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
South Tower - 9A22
Palm Location 7580

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/J.A. Lorengo/ 1793
SPE **Art Unit**

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Paper No. None

WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of Alazel Acheson et al. Application No. 10/776,370 Filed: February 10, 2004 Attorney Docket No. MSFT-3026 / 307009.01 Title: SYSTEMS AND METHODS FOR A DATABASE ENGINE IN-PROCESS DATA PROVIDER	DECISION ON PETITION UNDER 37 C.F.R. § 1.181(A)

This is a decision on the petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on May 21, 2007.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 11, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 12, 2006. A notice of abandonment was mailed on April 18, 2007.

With the present petition, Petitioner has alleged that the mailing was not received, and has included a copy of both the mail log record and the docket report.

CONCLUSION

Petitioner has met the requirements of Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that he has searched the file jacket and the docket record, and he has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the non-final action of September 11, 2006, and will set a new period for response.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM NY 12110

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OFFICE OF PETITIONS

In re Application of	:	
Mousa et al.	:	
Application No. 10/776,383	:	ON PETITION
Filed: February 11, 2004	:	
Attorney Docket No. MOUSA-6043	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 10, 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 Response to the Restriction Requirement and a Preliminary Amendment, (2) the petition fee, 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) 272-3206.

This matter is being referred to Technology Center 1600 for further examination on the merits.

Liana Walsh
Petitions Examiner
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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LAW OFFICE OF DALE B. HALLING
24 s. WEBER ST., SUITE 311
COLORADO SPRINGS CO 80903

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AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of
John Snyder
Application No. 10/776,400
Filed: February 11, 2004
Attorney Docket No. XAW-0302

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(b)

This is in response to the petition filed July 12, 2004, under 37 CFR 1.47(b).

The petition is **GRANTED**.

The instant petition is timely filed in response to the Notice to File Missing Parts mailed May 10, 2004.

Petitioners have shown that a copy of the application was sent to the non-signing inventor. The inventor, however, has failed to sign and return the declaration naming him as the sole inventor. Additionally, petitioners have shown proprietary interest by providing a copy of the "Licence Agreement" between XAware, Inc. and TELEGEA, Inc. Petitioner claims that TELEGEA, Inc. is the non-signing inventor's employer. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and has demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47©), this Office will forward notice of this application's filing to the non-signing inventor. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2819 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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JOHN SNYDER
TELEGEA INC.
345 WINTER STREET
WALTHAM, MA 0451

COPY MAILED
AUG 1 1 2004
OFFICE OF PETITIONS

In re Application of
John Snyder
Application No. 10/776,400
Filed: February 11, 2004
For: TEXT TO XML TRANSFORMER AND METHOD

Dear Mr. Snyder:

You are named as the inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (703) 305-4497. Effective September 24, 2004 the contact number for the Office of Petitions will change to (571) 272-3282. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
LAW OFFICE OF DALE B. HALLING
24 s. WEBER ST., SUITE 311
COLORADO SPRINGS CO 80903

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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET-DEPT.ICC
PHILADELPHIA, PA 19103

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JAN 13 2009

In re Application of	:	
GORSUCH, et al.	:	
Application No. 10/776,424	:	DECISION GRANTING PETITION
Filed: February 11, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **TAN-2-1404.06.US**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 12, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not received within sufficient time to avert the issuance of the application into a patent. Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue** (Emphasis added).

In this case, the petition was not received in the Office of Petitions for consideration until 5:28 pm on January 12, 2009, after the office had closed. Therefore, as the case has now issued into patent no. 7,477,900, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will not be refunded to petitioner's deposit account no. 09-0435.

The information disclosure statement has been made of record in the file of the above-identified application without further consideration. *See 37 CFR 1.97(i)*.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/06/06

TO SPE OF : ART UNIT **3738**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/776434 6972037

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:

_____

_____

_____

_____

_____

Cmn — **SPE**

3738 — **Art Unit**

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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MAY 10 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Patel et al.	:	
Application No. 10/776,437	:	
Filed: February 10, 2004	:	
Attorney Docket No. 030222	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 23, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2600 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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FLETCHER YODER (TYCO INTERNATIONAL, LTD.)
P.O. BOX 692289
HOUSTON TX 77269-2289

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AUG 23 2006
OFFICE OF PETITIONS

In re Application of :
Berson et al. : DECISION ON PETITION
Application No. 10/776,444 :
Filed: February 10, 2004 :
Docket No. TYHC:0053-2 :
/FLE/P02305-02

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed February 2, 2005, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on May 3, 2005. A Notice of Abandonment was mailed on September 7, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment and a terminal disclaimer, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 3736.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No.

Brian M. Hoffman
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 California Street
Mountain View, CA 94041

MAILED

MAR 21 2005

Technology Center 2100

In re Application of:
Andrew Phillip Haslam
Application No. 10/776,445
Filed: February 10, 2004
For: IN-PLACE PRESERVATION OF FILE SYSTEM OBJECTS DURINGA DISK CLONE OPERATIO SYMATEC CORPORATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 28, 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 filed September 28, 2004 meets all the requirements. Accordingly 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.

for James R. Matthews

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: SONNENSCHEIL NATH & ROSENTHAL LLP
685 Market Street, 6th Floor
San Francisco, CA 94105

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.

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

COPY MAILED

DEC 27 2004

OFFICE OF PETITIONS

In re Application of Satoshi Harada, Edward Hume, James Willis, Kevin Chamness, Hieu Lam, Hongyu Yue and David Fatke Application No. 10/776,452 Filed: February 12, 2004 Attorney Docket No. 071469-0307698 Title: METHOD FOR AUTOMATIC CONFIGURATION OF PROCESSING SYSTEM	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47(a)," filed September 28, 2004.

The petition is **GRANTED**.

The above-identified application was filed on February 12, 2004, without an executed oath or declaration. In an accompanying application data sheet, Satoshi Harada, Edward Hume, James Willis, Kevin Chamness, Hieu Lam, Hongyu Yue and David Fatke were named as joint inventors. Accordingly, on May 10, 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 addition, the Notice required payment of the statutory basic filing fee and additional claim fees).

In response, rule 47 applicant filed inter alia the instant petition (and fee); the late surcharge; and a declaration executed by joint inventors Harada, Hume, Willis, Chamness, Lam and Yue on behalf of themselves and on behalf of non-signing joint inventor David Fatke. This response was made timely by an accompanying petition for extension of time for response within the third month (and fee). Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventor David Fatke has refused to join in the application.

By statement of patent attorney Jeffrey Karceski, rule 47 applicants have shown that inventor Fatke has, by his conduct, refused to join in the application. In support thereof, rule 47 applicants submitted copies of the cover letters forwarding the application papers to the inventor and of the signed certified mail receipt acknowledging receipt of those papers at the inventors' last known address.

The petition includes the last known address of non-signing inventor Fatke.

The declaration filed September 28, 2004, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application will be examined in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mr. David Fatke
8000 Davis Mountain Cove
Austin, TX 78726

COPY MAILED

DEC 27 2004

OFFICE OF PETITIONS

In re Application of :
Satoshi Harada, Edward Hume, :
James Willis, Kevin Chamness, : LETTER
Hieu Lam, Hongyu Yue and :
David Fatke :
Application No. 10/776,452 :
Filed: February 12, 2004 :
Attorney Docket No. 071469-0307698:
Title: METHOD FOR AUTOMATIC :
CONFIGURATION OF PROCESSING SYSTEM :

Dear Mr. Fatke:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOV 3 2005

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of	:
Robert L. Diaz et al	:
Serial No.: 10/776,455	: PETITION TO MAKE SPECIAL
Filed: February 10, 2004	:
Attorney Docket No.: 2385.010	:

This is in response to the 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 not satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **DENIED**.

M.P.E.P. 708.02, IV states: *An application may be made special upon filing a petition including any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or applicant's statement.* Applicant states that he is only 64 years of age and therefore does not qualify.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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 15 2009

OFFICE OF PETITIONS

VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

In re Application of	:	
Sameer KANAGALA, et al	:	
Application No. 10/776,460	:	DECISION ON PETITION
Filed: February 10, 2004	:	TO WITHDRAW
Attorney Docket No. HAMMP006	:	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 24, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Lee Van Pelt and the attorneys associated with Customer Number 21912, have been revoked by the assignee of the patent application on August 28, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

/Diane Goodwyn/
Petitions Examiner
Office of Petitions

cc: GREG LEITICH
804 BAYLOR STREET
AUSTIN, TX 78703

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

MENDELSOHN, DRUCKER, & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

Mail Date: 04/21/2010

Applicant	: Muralidharan S. Kodialam	: DECISION ON REQUEST FOR
Patent Number	: 7593348	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/776,466	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1290** 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
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MENDELSOHN, DRUCKER, & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

Mail Date: 05/18/2010

Applicant : Muralidharan S. Kodialam
Patent Number : 7593348
Issue Date : 09/22/2009
Application No : 10/776,466
Filed : 02/11/2004

: 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 **1382** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN, 55402-3901

COPY MAILED

JUN 15 2007

OFFICE OF PETITIONS

In re Application of	:	
William H. McBride, et al.	:	
Application No. 10/776,470	:	DECISION ON PETITION
Filed: February 11, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 329532	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 13, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by applicant David M. Goldenberg.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being referred back to the Office of Initial Patent Examination for further processing. This application will be accorded "special" status when the pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHELE LIU
P.O. BOX 4386
FOSTER CITY, CA 94404

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JUL 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Lawrence C. Gunn III et al	:	
Application No. 10/776,475	:	DECISION ON PETITION
Filed: February 10, 2004	:	TO WITHDRAW
Attorney Docket No. LUXTRA. 031A	:	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 3, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Michele Liu 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.

The correspondence address of record remains unchanged.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272- 3210.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Knobbe Martens Olson & Bear, LLP
Attn: Mr. Mark Gallagher
2040 Main Street, 14 Floor
Irvine, CA 92614

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/20/09

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction for Appl. No 10/776,487 No.: 7,452,763

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 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.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Matthew S. Smith/ — SPE

2823 — 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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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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MAY 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Ralph M. Ellison et al	:	
Application No. 10/776,504	:	DECISION ON PETITION
Filed: February 12, 2004	:	TO WITHDRAW
Attorney Docket No. 077319-0399	:	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 1, 2005.

The petition is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

This application is being referred to Technology Center AU 1616.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

for David Bucci
Petitions Examiner
Office of Petitions

cc: CEPHALON, INC.
41 MOORES ROAD
PO BOX 4011
FRAZER, PA 19355

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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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/776508	02/12/2004	Curry	118591

OLIFF & BERRIDGE, PLC.
P.O. BOX 19928
ALEXANDRIA VA 22320

DATE MAILED: November 29, 2004

PETITION DISMISSAL

Dear Applicant:

The petition for PG Pub replacement drawings received by the U. S. Patent and Trademark Office is **dismissed**. The drawings will be included in the application file but **will not** be included for patent publication due to the following reason(s):

1) □ Non compliance:
   - τ Drawing(s) and/or Figure(s) Missing
   - τ Deficiencies in Drawings:
     - τ Improper paper size – must be either A4 (21cm x 29.7cm) or 8-1/2" x 11"
     - τ Improper margins (each drawing sheet must include a top margin of at least 1 inch, a left side margin of at least 1 inch, a right side margin of at least 5/8 inch, and a bottom margin of at least 3/8 inch)
     - τ Not reproducible:
       - τ Paper too thin
       - τ Glossy pages
       - τ Non-white background
     - τ Drawing Objection(s)
       - τ Missing lead lines, drawing(s) _____
       - τ Line quality is too light, drawings(s) _____
       - τ More than 1 drawing and not numbered correctly
       - τ Non-English text, drawing(s) _____
       - τ Excessive text, drawing(s) _____
       - τ Photographs capable of illustration, drawing(s) _____
       - τ Photographs may not be mounted (must be developed on a sheet of

paper meeting the paper size requirement). 37 CFR 1.85(e)

2) ☐ Submission Did Not Meet Fee Requirements

- τ No Fee
- τ Insufficient fee by check
- τ Insufficient funds in deposit account
- τ Declined credit card
- τ Non authorization for charge to deposit account

3) ☒ Untimely Submission

If you desire to have replacement drawings included for patent publication, you must submit **new** drawings, a petition, the petition fee of $130 and a transmittal letter. The new submission must be submitted to the U. S. Patent and Trademark Office **within the later of one month from the filing date of the application, or fourteen months from the earliest filing date for which a benefit is sought under title 35, United States Code.**

Telephone inquiries should be directed to The Office of Pre Grant Publication, at 703 605-4283

Kalethis King

Signature of Reviewer, Pre Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 15 2008

BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of	:	
Shinichi Ozeki	:	
Application No. 10/776,525	:	ON PETITION
Filed: February 12, 2004	:	
Attorney Docket No. 0505-1271P		

This is a decision on the petition, filed August 14, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 21, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3616 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100111

DATE : December 03, 2010

TO SPE OF : ART UNIT 3657

SUBJECT : Request for Certificate of Correction on Patent No.: 7,455,152

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:

/ROBERT A SICONOLFI/
Supervisory Patent Examiner.Art Unit 3657

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL -2 2004

In re Application of	:	
Colin Drane	:	
Serial No. 10/776,549	:	DECISION ON PETITION
Filed: February 11, 2004	:	TO MAKE SPECIAL
For: COLLAPSIBLE TRUNK ORGANIZER	:	

Applicant's petition, filed March 5, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Larry J. Guffey
World Trade Center
401 East Pratt Street, Suite 1800
Baltimore, MD 21202

UNITED STATES PATENT AND TRADEMARK OFFICE

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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

In re Application of	:	
Thomas E. Gorsuch et al	:	
Application No. 10/776,558	:	ON PETITION
Filed: February 11, 2004	:	
Attorney Docket No. TAN-2-1401.07.US		

This is a decision on the petition, filed February 6, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 21, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 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/
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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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

MAILED

FEB 10 2009

OFFICE OF PETITIONS

In re Application of :
Thomas E. Gorsuch et al :
Application No. 10/776,558 : ON PETITION
Filed: February 11, 2004 :
Attorney Docket No. TAN-2-1401.07.US

This is a decision on the petition, filed February 6, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 21, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 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/
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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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/26/2010

Applicant	: Thomas E. Gorsuch	: DECISION ON REQUEST FOR
Patent Number	: 7580715	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/776,558	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **355** 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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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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APR 13 2009

OFFICE OF PETITIONS

In re Application of
Krzysztoff Sowinski, et al.
Application No. 10/776,576
Filed: February 11, 2004
Attorney Docket No. 760-102 DIV/RCE

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 18, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other 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: BOSTON SCIENTIFIC SCHIMED, INC
ONE SCHIMED PLACE
MAPLE GROVE, MN 55311-1566

SPE: D. Bryant

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/19/07

TO SPE OF : ART UNIT 3726

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/776,614 Patent No.: 7152307

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

DAVID P. BRYANT
SUPERVISORY PATENT EXAMINER
SPE

3726
Art Unit

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Merchant & Gould P.C.
P.O. Box 2903
Minneapolis MN 55402-0903

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OFFICE OF PETITIONS

In re Application of :
Hansen et al. :
Application No. 10/776,661 :
Filed: February 10, 2004 :
Attorney Docket No. 13569.0099US01 :

ON PETITION

This is a decision on the petition under 37 CFR 1.10(d), filed September 20, 2005, requesting that the above-identified application be accorded a filing date of February 10, 2004, rather than the presently accorded filing date of February 9, 2004.

Petitioner asserted that petitioner deposited the above-identified application with the USPS using "Express Mail Service" on February 10, 2004. In support of the allegation, the petition is accompanied by a United States Postal Service Track & Confirm receipt, indicating that the USPS accepted a package bearing Express Mail label No. EV407363544US on February 10, 2004, at 7:25 PM, in Minneapolis, MN 55401. The same Express Mail label number was placed on the original application papers located in the official file.

Accordingly, the petition is **granted**.

The Office of Initial Patent Examination is directed to correct the filing date of the above-identified application to February 10, 2004, and to mail a corrected filing receipt.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. None

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OFFICE OF PETITIONS

CTGen Inc.
464 S. Hillview Drive
Milpitas CA 95051

In re Application of	:	
Nam Ngo et al.	:	
Application No. 10/776,694	:	DECISION ON PETITION
Filed: February 12, 2004	:	UNDER 37 C.F.R. §1.137(B)
Title: DEVICES AND METHODS	:	
FOR THE SYNTHESIS OF NUCLEIC	:	
ACIDS	:	

This is a decision on the petition filed December 12, 2005, 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 Notice to File Missing Parts of Nonprovisional Application, mailed May 17, 2004, which set a shortened statutory period for reply of two (2) months. The notice indicated that the basic filing fee, a properly executed oath or declaration along with the surcharge associated with the late submission of the same would be required. 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 July 18, 2004. With the present petition, Petitioner has submitted a declaration, the surcharge associated with the late submission of the same, the petition fee, the basic filing fee, additional

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.

claim fees, a terminal disclaimer and the surcharge associated with the same.

No terminal disclaimer is required. As such, the terminal disclaimer will not be entered, and the associated fee will be refunded via the preparation of a treasury check in due course.

It is noted that the declaration which Petitioner has submitted is the declaration which is appropriate for applications in which an Application Data Sheet (ADS) has been filed. The electronic file has been reviewed, and it does not appear to contain an ADS. As such, the declaration cannot be accepted.

As such, this petition under 37 C.F.R. §1.137(b) is **DISMISSED.**

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.137(b)," and must include a completed ADS and a newly executed declaration. This is not a final agency action within the meaning of 5 U.S.C 704.

For guidance on the preparation of an ADS, see the following website:

http://www.uspto.gov/web/offices/pac/dapp/sir/doc/patappde.html

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

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CTGen Inc.
464 S. Hillview Drive
Milpitas CA 95051

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OFFICE OF PETITIONS

In re Application of
Nam Ngo et al.
Application No. 10/776,694
Filed: February 12, 2004
Title: DEVICES AND METHODS FOR THE SYNTHESIS OF NUCLEIC ACIDS

DECISION ON RENEWED PETITION UNDER 37 C.F.R. § 1.137(B)

This is a decision on the renewed petition filed July 30, 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 reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application, mailed May 17, 2004, which set a shortened statutory period for reply of two months. The notice indicated that the basic filing fee, a properly executed oath or declaration along with the surcharge associated with the late submission of the same would be required. 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 July 18, 2004.

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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.

An original petition was filed on December 12, 2005, and was dismissed via the mailing of a decision on June 16, 2006, for failure to include an acceptable declaration.

With this renewed petition, Petitioner has submitted another declaration along with an Application Data Sheet (ADS).

The **declaration cannot be accepted**, as it fails to comply with 37 C.F.R. § 1.63. The declaration contains non-initialed and non-dated changes on the second page of the same[2].

As such, this renewed petition under 37 C.F.R. § 1.137(b) is **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 "Second Renewed Petition Under 37 C.F.R. § 1.137(b)," and must include a newly executed declaration. This is not a final agency action within the meaning of 5 U.S.C § 704.

Petitioner has further submitted a **Power of Attorney that cannot be entered**, as it has been executed by only one of the three joint inventors[3].

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].

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

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2 See 37 C.F.R. § 1.52(c)(1) and MPEP § 605.04(a).
3 See MPEP § 402.10.
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.

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.

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[7]. 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 the delay was intentional, Petitioner must notify the Office.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: SCHNECK & SCHNECK
P.O. BOX 2-E
SAN JOSE, CA 95109-0005

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7 See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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OFFICE OF PETITIONS

In re Application of :
Nam Ngo et al. :
Application No. 10/776,694 :
Filed: February 12, 2004 :
Title: DEVICES AND METHODS :
FOR THE SYNTHESIS OF NUCLEIC :
ACIDS :

DECISION ON SECOND RENEWED PETITION UNDER 37 C.F.R. § 1.137(B)

This is a decision on the second renewed petition filed November 13, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

The concurrently submitted Power of Attorney and Change of Correspondence Address has been entered and made of record.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application, mailed May 17, 2004, which set a shortened statutory period for reply of two months. The notice indicated that the basic filing fee, a properly executed oath or declaration along with the surcharge associated with the late submission of the same would be required. No response was received, and no extensions of time under the provisions of

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.

37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 18, 2004.

An original petition was filed on December 12, 2005, and was dismissed via the mailing of a decision on June 16, 2006, for failure to include an acceptable declaration.

A renewed petition was filed on July 30, 2007, along with an Application Data Sheet (ADS), and was dismissed via the mailing of a decision on September 12, 2007, for failure to include an acceptable declaration.

With the present petition, Petitioner has submitted an acceptable declaration, thus meeting the first requirement of Rule § 1.137(b). Petitioner has previously met requirements (2) and (3), and the fourth requirement is not applicable.

As such, this renewed petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

The Office of Patent Application Processing (OPAP) will be notified of this decision so that the application may receive further processing.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[2].

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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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
10/776,694	02/12/2004	Nam Ngo	

CONFIRMATION NO. 2784

POA ACCEPTANCE LETTER

3897
SCHNECK & SCHNECK
P.O. BOX 2-E
SAN JOSE, CA 95109-0005

OC000000027042554

Date Mailed: 12/03/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/13/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/pashanoski/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199